Statism, Nationalism, and Cosmopolitanism: An Essay on the Scope and Structure of Distributive Justice

A thesis submitted to The University of Manchester for the degree of PhD in the Faculty of Humanities

2010

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Statism, Nationalism, and Cosmopolitanism: An Essay on the Scope and Structure of Distributive Justice

Abstract

According to many political philosophers, one cannot consistently think that the world is radically unjust while denying that the well-off members of that world have highly demanding and enforceable duties to rectify or at least try to improve the situation. The consistent position is either to admit that the world is not radically unjust or to accept that the well-off have highly demanding duties of global justice. Interestingly, though, many well-off people seem unwilling to accept either of these alternatives; they are sure that the world is unjust, but they are also fairly sure that they don’t have any highly demanding and enforceable duties to rectify the situation. Are the philosophers right? Are the people who believe both of these claims simply confused?

In this essay I argue that the people who hold both claims to be true may not be as confused as many philosophers think they are. I begin by refuting the positions of ‘Statists’ and ‘Nationalists’, both of whom argue that claims of radical injustice can only arise within the boundaries of contemporary nation-states, and that the belief about the radical injustice of the global distribution is therefore simply false. I argue that statist justifications for this ‘domestic scope restriction’ of justice are self-contradictory, because when properly understood they actually imply that the scope of justice is global. And I argue that nationalist justifications for the domestic scope restriction are untenable, because when properly understood they actually entail the implausible conclusion that the scope of justice is more severely restricted than even the domestic scope restriction suggests.

Having rejected the statist and nationalist positions I turn my attention to the more positive task of explaining why people who hold the two ‘inconsistent’ claims are not, in fact, as confused as they might initially seem to be. The solution to the problem lies in the way we understand the concept of distributive justice itself. The central aim of this thesis is to defend a new way of interpreting the concept along the lines of what I call the ‘dual-component model of distributive justice’. In order to develop and defend this model I begin by conducting a detailed analysis of the four main ways in which the concept of distributive justice has traditionally been interpreted. These are: the currency view; the institutional view; the coercion view; and the fairness view. I argue that the currency view and the institutional view should be rejected. I then claim that the coercion view and the fairness view both capture a necessary and important truth about justice, but that neither view on its own is sufficient to explain the full range of our intuitions about justice.

My solution is to combine the coercion view and the fairness view within a single conceptual framework. The dual-component model of justice consists of two distinct sets of principles to which different roles are assigned within the theory. One set of principles, which corresponds to the fairness view of justice, specifies an ideally fair distribution. The other set of principles, which corresponds to the coercion view, specifies the limits on how people may be justifiably coerced. Both sets of principles – both ‘components’ – must be satisfied before a distribution can be declared fully just.

The dual-component model promises to explain how and why the radical injustice of the global distribution, on the one hand, and the duties that well-off individuals have to respond to this situation, on the other hand, can be seen as two distinct issues. If my argument is right then the reason why Statists and Nationalists, as well as many other approaches to justice, are coming up with the wrong conclusions is because they misunderstand the nature of justice itself.

Declaration

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Acknowledgements

I would like to thank several people for their help, encouragement, and friendship over the course of this project.

First, I would like thank Hillel Steiner for his support and supervision over the years. As head of the Manchester Centre for Political Theory (MANCEPT) when I started my PhD, Hillel was a regular source of advice and inspiration, and his offer to continue supervising my work long after he had any obligation to do so was greatly appreciated, if not in the least surprising. I would also like to thank Kimberley Brownlee, who provided further supervisory support and encouragement during the early stages of my work.

The wider MANCEPT community has provided me with a constantly stimulating and hugely enjoyable working environment over the past few years, and I would like to thank all those who came to listen to me present one of several works-in-progress (and give me a hard time over it). Special thanks, though, must go to three of my fellow PhD candidates, Rebecca Reilly-Cooper, David Birks, and Tom Goodwin. Becca, David, and Tom not only helped me immensely with my understanding of political philosophy, they are also good friends, and it was a pleasure to share the experience of writing a PhD with all three of them.

I would like to thank my parents, John and Annemarie, and my brother, Paul, for their constant encouragement, not only for the duration of the PhD, but for many years before that as I worked my way through university without always knowing where I was going next. My biggest personal debt, however, is to my partner, Steph. I’m sure there must be many times when living with a PhD student is not much fun, but Steph has been nothing but supportive throughout. Her patience and encouragement, especially during the final year, have been absolutely vital to the success of this project.

Finally, I would like to give special thanks to my primary supervisor, Jonathan Quong. My personal and intellectual debt to Jon is enormous. After hours of discussion and hundreds of comments on countless drafts it is hard to overstate the positive impact that Jon has had on my work. If I had referenced all of the ideas that he has given me, examples that he has come up with, and objections he has forced me to consider, the thesis would just be one long footnote. I hope that I have succeeded in taking Jon’s input and using it to produce something of quality. Any flaws that remain, of course, are entirely down to me.
(1) Introduction

I. The global justice trilemma

Consider the following claim:

**Distributive claim:** The current global distribution of material and non-material goods is radically unjust. Those who are badly-off under the current distribution have a claim to redistribution which, if satisfied, would lead to a significant increase in justice.

A significant number of philosophers endorse the distributive claim. And they are not alone. Many relatively well-off people around the world also agree that the current global distribution is radically unjust.\(^1\) Consider the popularity in the UK, Canada and other countries of the recent ‘Make Poverty History’ campaign (which officially ended in 2006), and the continued (though less vocal) support shown for its parent organisation – the worldwide civil society known as The Global Call to Action Against Poverty (GCAP). In the name of the ‘Make Poverty History’ campaign an estimated 225,000 people marched in Edinburgh on the eve of the G8 summit in Gleneagles, Scotland in July 2005, and the campaign enjoyed the support of over 540 member organisations including many faith groups, trade unions and charities.\(^2\) What is particularly noteworthy about campaigns such as ‘Make Poverty History’ is their specific concern with global justice as opposed to charity; when people support these campaigns they do so not out of sympathy, but because they want to see justice in the world.\(^3\)

\(^1\) Since I am mainly interested at this stage in reporting the views of non-philosophers, I leave deliberately vague the answers to questions that we are going to have to address later on. In particular I make no commitment to any particular ‘currency’ of global justice (e.g. resources, welfare, opportunities, capabilities, etc.) or any particular criterion for its distribution (e.g. sufficientarian, prioritarian, egalitarian, etc.).

\(^2\) Though the campaign is no longer active, the list of former members can still be found at, http://www.makepovertyhistory.org/whoweare/members-a.shtml.

\(^3\) GCAP’s self-declared mission is to ‘[challenge] the institutions and processes that perpetuate
However, while the widespread support for organisations whose stated mission is to achieve global justice suggests that many people think the current global distribution is unjust, it remains the case that very few of these people are doing much to rectify the situation. And, indeed, most well-off people seem to think that there is nothing *unjust* about the fact that few of those who could make a difference are in fact doing anything about it. They therefore appear to endorse a second claim:

**Duty claim:** Relatively well-off individuals do not have a strong, enforceable duty to make the kinds of significant changes in their lives that would be required in order to eradicate global injustice.4

Evidence for the widespread commitment to this claim can be found throughout our everyday lives. We are surrounded by vast wealth – most obviously in the form of expensive houses, cars, appliances, clothes, furniture, food, but also in the money people have stored in accounts and investments of various kinds – wealth that could bring huge benefits to the worst-off inhabitants of the planet. And yet we see no widespread or concerted effort to force or even encourage people to cash-in their investments or take money from their savings in order to transfer wealth to the global poor. People are unashamed of themselves, and uncritical of others, when they buy expensive cars and other goods, even though buying cheaper versions of the same items would free up money to bring healthcare or education benefits to the disadvantaged. There would be outrage if the government decided to raise income tax by twenty or thirty percent in order to redistribute the extra money globally, and there would be even greater outrage if badly-off individuals from developing countries travelled en masse into developed countries in order to take money and goods directly

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4 The plausibility of this claim obviously depends to a large extent on what counts as a ‘significant’ change, and unfortunately there is no neat and uncontroversial way of answering this question. In the next paragraph of the main text I discuss some examples which, I think, illustrate the “least significant” significant changes that people might make. The point is that since people do not seem willing even to make *these* significant changes, they are unlikely to be willing to make even more significant changes.
from well-off citizens. A reasonable conclusion to draw from all this is that most people think that the well-off are under no duty of justice to make any significant changes to their lifestyles for the sake of making the world more just.

Now consider a third claim:

**Conceptual claim:** The claims that people have as a matter of justice, unlike claims grounded in other moral values, entail the existence of strong, enforceable duties on others to respect or satisfy these claims.

It would appear that most of the relatively well-off individuals who are committed to the distributive claim and the duty claim are also committed to the conceptual claim. Most of these people, for instance, think that their fellow citizens have a duty of justice to pay tax which the state may legitimately enforce. Most people think that they have a duty of justice not to violate others’ personal property, and that these others would be justified in using some degree of force against them in order to protect their property. And most people think everyone has an enforceable duty of justice to respect others’ freedom of expression or right to vote. Compare the way many people think about these duties of justice with the way they think about duties grounded in other moral values. Friends should help one another out, but most people do not think they would be justified in coercing their friends into helping them out. People should give money to charity, but most people do not think we could justifiably coerce people into giving money to charity. People should generally stick to their promises, but people rarely think they are justified in coercing people into sticking to their promises. While there is bound to be some disagreement about where to draw the line between moral duties and duties of justice, the general view held by most people appears to be more or less in line with the view stated by the conceptual claim. That is, while people seem to believe they are open to moral criticism for failing to fulfil their moral duties, the coercive enforcement of a duty only seems appropriate when the duty in question is a duty of justice.
I have suggested that many people, when considering the distributive claim, the duty claim, and the conceptual claim separately and in isolation from the others, would endorse all three. The problem is that, when all three claims are considered together, they are not obviously compatible with each other. If the distributive claim and the conceptual claim are true, for instance, then this would seem to imply not only that the badly-off have some significant claims of justice on the well-off but that these claims ground enforceable duties on the well-off to make significant changes to their lives in order to satisfy these claims. But, of course, this implication directly contradicts the duty claim. If, on the other hand, the conceptual claim and the duty claim are true, then the distributive claim would appear to be false, since if claims of justice ground enforceable duties and the well-off have no significant enforceable duties to the badly-off then it seems unlikely that the global distribution is radically unjust. Finally, if the distributive claim and the duty claim are both true, then the conceptual claim itself seems likely to be false, since the fact that the well-off do not owe any significant enforceable duties to the badly-off even though the global distribution is radically unjust suggests that in fact there is no conceptual link between claims of justice and enforceable duties.

On the face of it, then, it would appear that we are faced with a trilemma. While any two of (a) the distributive claim, (b) the conceptual claim, and (c) the duty claim, can be simultaneously true, it cannot be the case that all three are true. I refer to this as the ‘global justice trilemma’. Here are the three claims of the global justice trilemma restated more concisely:

(a) **The distributive claim**: the global distribution is radically unjust.

(b) **The conceptual claim**: claims of justice ground enforceable duties.

(c) **The duty claim**: relatively well-off global inhabitants owe no ‘significant’ enforceable duties to the less well-off.
I shall shortly discuss the various ways in which one might try, and indeed many have tried, to resolve the global justice trilemma. Before that, however, it is perhaps worth acknowledging that the way in which the three claims are formulated obviously leaves a great deal of room for interpretation. This is intentional. I do not pretend that the trilemma sets up a highly specific problem which we can ‘solve’ through philosophical analysis. It would be nice if it did, but unfortunately global justice is too complicated an issue to be reduced in this way. The point of the trilemma is rather to provide a starting point for discussion. It is to help us see where and how people are disagreeing and to assist us in moving the debate forward. The hope is that in trying to explain where the formulation of the three claims goes wrong we will be forced to work out what we agree on and what we disagree on.

II. Escaping the trilemma

Generally speaking there are two ways of escaping a trilemma. The first, which I shall refer to as the accommodationist approach, is to explain how all three claims can be plausibly and simultaneously endorsed. The second, which I shall call the rejectionist approach, is to explain why one (or more) of the trilemma’s claims can, and should, be rejected. In a moment I shall explain why I believe the accommodationist approach is the best way of responding to the trilemma, and I shall outline the version of the accommodationist approach that will be developed in greater detail in this essay. Before that, however, I shall briefly discuss some different versions of the rejectionist ‘response’ which have appeared in the literature. There are three different versions of the response, each one of which corresponds to one of the three claims of the trilemma.

5 I place ‘response’ in quotes because the rejectionist views I shall consider here are obviously not intended as responses to the global justice trilemma, though they can be construed as such.
The rejection of the distributive claim

The most common rejectionist strategy is to deny the truth of the distributive claim. One version of this strategy is to invoke what we might describe as an ‘argument from culture’. The argument is that different societies and cultures place varying degrees of value on material wealth and the trappings of western style ‘development’ and thus, although the global distribution is marked by very large inequalities of material goods, and although these inequalities would normally be thought to raise problems of radical injustice if they obtained within a single society, they do not raise similar problems of injustice when they obtain across different societies. Aside from the objectionable cultural essentialism implicit in this argument, the argument fails on its own terms because the empirical claim it relies on is simply false. While there is of course some variation in the value placed on material development by different cultures, this variation is nowhere near wide enough or widespread enough to vindicate the justice of the global distribution with its egregious inequalities. Since this argument is in any case rarely invoked in the philosophical literature I simply put it to one side in what follows.

A much more common version of the first rejectionist strategy, of which there are, by contrast with the earlier version, many examples in the literature, is to argue that the global sphere simply lacks the kind of rule-bound practices and institutional structures that are a prerequisite of our ability to make coherent and meaningful judgements of justice and injustice in the first place. A number of writers, including Thomas Nagel, Andrea Sangiovanni, Michael Blake, and Saladin Meckled-Garcia, have all recently defended this view. Because, argue these writers, the relevant practices and/or institutions do not exist at all, or exist only in a highly attenuated form, at the global level, claims about global justice and injustice are incoherent. If this is right, then the ostensible ‘trilemma’ is really no such thing, for if we are unable to make any

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judgments of justice that apply globally, then the distributive claim itself must be meaningless.

In chapter 2 I explain why the strategy employed by these writers for rejecting the distributive claim is mistaken. In their attempts to emphasise the ‘disanalogy’ between the domestic (i.e. statist) and global spheres these writers typically display a distinct lack of sensitivity to the actual experiences of individuals who live on different sides of salient political boundaries. The rules and institutional structures of states may be intended to apply in the first instance to citizens, but when we are working out what people are due as a matter of justice it is not enough, in a world such as ours where the vast majority of people have the physical capacity to move relatively quickly and easily between states, to appeal only to their intended effects – we must consider their actual effects. When we do this, and we compare the circumstances of individual citizens with those of individual non-citizens we will see that the apparent disanalogy between the domestic and global sphere is no such thing. Far from justifying the restricted scope of justice, arguments which link the coherence of judgements of justice to the influence of rule-bound practices and institutions entail that justice is indeed global in scope.

A third version of the first rejectionist strategy attempts to refute the distributive claim not by focusing on the cultural idiosyncrasies of different societies, or the rule-bound practices and institutions of states, but on the moral significance of people’s membership of different nations. The argument here is similar in form to those statist arguments considered in the previous paragraph which rely on the disanalogy between the domestic and global institutional spheres. The claim is that judgements of radical injustice such as the one asserted by the distributive claim can only sensibly be applied in intra-national rather than inter-national settings. The reason for this is simply that the demanding standards of justice invoked by the distributive claim do not, as the distributive claim implies, apply universally. Instead, they only apply within groups whose members stand in an ethically significant relationship with one another as co-

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nationals. Thus, while the current level of global inequality may be cause for some kind of ethical concern, it is false to claim of the global distribution that it is radically unjust, since this kind of judgement can only hold between members of the same nation.

This nationalist rejection of the distributive claim has been discussed in great detail by numerous writers, most notably David Miller and Samuel Scheffler.\(^8\) In chapter 3 I explain why it is mistaken. I do not deny that co-nationals may sensibly be thought of as standing in an ethically significant relationship with each other; perhaps co-nationals do owe each other so-called ‘associative duties’, in the same way that friends and family are often thought to. Rather than deny the very possibility of co-national associative duties, I argue that any associative duties that do exist between co-nationals are unable to provide a convincing explanation and justification of the norms of justice that are typically thought to apply universally between citizens. The reason for this is that any plausible attempt to show that co-national associative duties can indeed hold between citizens must allow for the possibility that some citizens might not owe any associative duties to their co-nationals, even though they continue to reside within the same state. Since those who support the restriction of the scope of justice to the boundaries of the state are usually unwilling to countenance the possibility that some citizens, as well as all non-citizens, might be excluded from the scope of justice, the nationalist justification for the restricted scope of justice must be rejected. If domestic inequality is thought to raise problems of radical injustice, then the explanation for this is not that citizens are also co-nationals. And if our judgements of radical injustice do not depend on a pre-existing co-national relationship, then this cannot be put forward as a reason for why such judgements might not apply globally.

Before moving on to discuss the remaining rejectionist strategies for dealing with the trilemma (i.e. the rejection of the conceptual claim and the rejection of the duty claim) I must briefly explain why I shall not be devoting any serious attention to

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John Rawls’s argument in *The Law of Peoples*. In many ways, *The Law of Peoples* would seem to be a prime candidate for inclusion in the current discussion. Not only does Rawls appear to reject the distributive claim, but the way he describes his notion of ‘peoples’ strongly suggests that they share the defining characteristics of both states and nations: like states, Rawls’s peoples possess a ‘reasonably just constitutional democratic government that serves their fundamental interests’; and like nations, Rawls’s peoples are united by ‘common sympathies’. After rejecting the ‘pure’ statist account and the ‘pure’ nationalist account, the natural thing to do might therefore seem to be to consider the combined approach offered by Rawls. There are three reasons, however, why I shall not be discussing *LoP* in any detail.

First, although combining the statist and nationalist arguments for the restricted scope of justice undeniably strengthens that conclusion, this is one of those situations in which the whole is not greater than the sum of its parts. That is, when the statist and nationalist arguments are combined, they do not metamorphose into some new, more powerful argument that requires separate attention, they remain vulnerable to the same counter-arguments as they were before they were combined. Thus, if my objections to the ‘pure’ versions of each argument are sound then the combined version of the arguments, even in the hands of Rawls, should pose no new challenge. Second, *LoP* has already received a huge amount of critical attention, and I see no point in adding my voice to the choir if I have nothing original to say. Third, though, and most importantly, insofar as I do have something new and interesting to say in response to Rawls’s theory of international justice, it is not in response to the substance of his approach but to its underlying form. The value of *LoP* lies in its systematic development of a particular way of interpreting the concept of justice, and I shall discuss this interpretation in detail from chapter 4 onwards. Thus while I decline to

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engage with the substance of Rawls’s theory of international justice, I nevertheless engage with its conceptual underpinnings in what I hope is a fruitful way in later chapters.

The rejection of the conceptual claim

While many writers have felt compelled to reject the distributive claim, those who object to the conceptual claim are less common. Whatever differences exist between the main competing conceptions of justice in the literature, most agree that justice necessarily ‘trumps’ other values in some way, and that this special priority of justice in turn explains the fact that duties of justice, unlike other moral duties, can be justifiably enforced via some form of coercion. (I have so far formulated the conceptual claim in terms of duties, but we might equally well formulate it in terms of rights by saying that, while other values may be capable of grounding rights, the rights grounded in justice not only take precedence in case of conflict but can be justifiably enforced if necessary). Whether the claim is formulated in terms of rights or duties, however, what is important is the necessary priority that justice has over other values, and the uniqueness of the link between justice and coercion. Those who reject the conceptual claim reject one or both of these purported elements of the concept of justice. And in doing so they escape the global justice trilemma, for if claims of justice do not necessarily ground enforceable duties, then the claims of those who are badly-off under a radically unjust global distribution do not necessarily generate any enforceable duties of justice on the well-off.

Perhaps the best-known writer who rejects the conceptual claim is G.A.Cohen. Precisely how Cohen understands the concept of justice is not entirely clear, but much of what he says suggests that, for him, there is no inherent link between the demands of justice and the presence of coercively enforceable duties. Cohen explains that he does not ‘see how anyone…can deny the possibility that certain facts, or other values, might

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12 For an ultimately aborted attempt to answer this question, see, A. Williams, ‘Justice, Incentives and Constructivism’, Ratio, 21 (4) (2008), 476-493, p.491.
make it inappropriate, or too difficult, or too costly, to produce justice’. Presumably if it can be inappropriate, too difficult, or too costly to produce justice, then it can also be inappropriate, too difficult, or too costly to enforce its ‘production’. What this shows is that, for Cohen, questions about the justice of a distribution are independent of questions about the enforceable duties that people have. This is what enables Cohen to say (or would have enabled him to say if he had wanted to say it) that although the global distribution is radically unjust, the well-off do not necessarily have any enforceable duties to rectify the situation.

I think there is much to be said for Cohen’s understanding of justice (and I am far more sympathetic to his view than many other writers), but I also think that the outright rejection of the conceptual claim is a mistake. This might appear problematic: if Cohen’s view of justice is incompatible with the conceptual claim, then how can I endorse both? The solution lies in coming up with an interpretation of justice that will allow us to both to endorse the conceptual claim while at the same time incorporating Cohen’s insights into the nature of justice. At the end of this introductory chapter I shall present a brief sketch of the kind of thing I have in mind. Much of this essay will then be devoted to mapping out the various interpretations of the concept of justice that have been proposed in the literature (chapters 4 and 5) and explaining in detail how the new model I am proposing marks an improvement on these interpretations.

The rejection of the duty claim

The third and final version of the rejectionist approach is the denial of the duty claim. Theorists who favour this strategy insist on the truth of both the distributive claim and the conceptual claim and are happy to simply bite the bullet when this inevitably leads to the conclusion that relatively well-off individuals around the globe owe highly demanding duties of justice to the global poor. Indeed, according to proponents of this strategy, the very fact that the distributive claim and the conceptual claim together imply the falsity of the duty claim is itself proof that the intuitions which

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underpin the duty claim are highly suspect. When the well-off have got such a good deal under the current distribution it is not difficult to think of alternative explanations for why their ‘moral intuitions’ tell them that they have no demanding duties of justice to the global poor.

This uncompromising view has its contemporary origins in Peter Singer’s article ‘Famine, Affluence, and Morality’, in which Singer famously argued that: ‘if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it’. Singer’s original discussion was presented as part of a theory of morality, rather than justice, but its central point is just as relevant to the latter domain as the former. If our world really is radically unjust then it is likely that some people have got much more than they should have (or would have, in a perfectly just world), while others have got much less than they should have (or would have, in a perfectly just world). And when each one of the individuals in the former group has it within his power to radically enhance and perhaps even save the lives of dozens of individuals in the latter group, it is clear that Singer’s principle will have some very demanding implications for those who are well-off under the current global distribution. This fact is no embarrassment to those who are sympathetic to Singer’s arguments. Indeed, it is precisely in order to get well-off individuals to do more to alleviate global justice that many proponents of this view argue for it in the first place.\(^1\)

The Singerian bullet-biting approach has an attractive simplicity to it, but this simplicity comes at a price. While it is no doubt true that the well-off have an ulterior motive for convincing themselves that they have no enforceable duties to eradicate or seriously alleviate global injustice, the fact is that this intuition, as I explained above, is shared not only by those who think the global distribution is not radically unjust, but also by many of those who think the global distribution is radically unjust. I am less


willing than Singer to reject these intuitions as simply confused or misguided. This is not to say, of course, that the normative theoretical buck stops at people’s common sense intuitions. If we are unable to come up with any legitimate moral reasons for our intuitions about the duty claim, then its coincidence with our self-interest becomes the default explanation, thus vindicating its rejection. As I argue in chapter 8, however, the duty claim is supported by legitimate moral reasons, and the Singerian rejection of it may well be too quick.

III. The justice gap

I said above that the way in which the three claims of the trilemma are formulated leaves a great deal of room for interpretation. This unavoidable vagueness means there will inevitably be times when we can’t be sure how to classify a particular theory in relation to the trilemma. I mentioned David Miller as an example of someone who may well reject the distributive claim on the grounds that the kind of radical inequality which pervades the global sphere can only be considered a radical injustice insofar as it holds between the members of a particular national group. But Miller also holds a sufficientarian conception of global justice which affirms that everyone is entitled to the satisfaction of a fairly robust set of basic needs as a matter of justice. Indeed, Miller is explicit that ‘a just world would also be a world in which disparities between rich and poor countries would be far smaller than those that exist now’, and this suggests that he might, in fact, accept the distributive claim. This kind of ambiguity makes it difficult to know whether Miller’s view amounts to a rejectionist or an accommodationist approach to the global justice trilemma.

A theory of global justice is accommodationist on my view if it endorses all three claims of the trilemma (while explaining, of course, how it is possible to do so consistently). And when we look more closely at Miller’s view we find there is good evidence to suggest that his position should actually be interpreted as accommodationist, rather than rejectionist. The clue lies in Miller’s suggestion that there exists what he calls a ‘justice gap’ – a ‘gap between what people in poor countries

16 Miller, National Responsibility and Global Justice, p.53 (emphasis added).
can legitimately claim as a matter of justice…and what the citizens of rich countries are obliged, as a matter of justice, to sacrifice to fulfil these claims’. Since Miller also appears to endorse the conceptual claim, his belief in the justice gap would seem to justify the accommodationist interpretation of his view.

The key to justifying the accommodationist view therefore seems to lie in explaining how the phenomenon of the justice gap is possible. Accommodationists must provide reasons for why the legitimate claims of the global poor which arise from an unjust global distribution do not in turn give rise to a correlative set of enforceable duties on the global rich to satisfy these claims. Miller himself provides only the briefest of sketches as to what these reasons might be. They include the problem of allocating responsibility for remedying global injustice fairly between nations, and the fact that the institutional and cultural idiosyncrasies of particular nations may make it more difficult, or more costly, for them to remedy injustice than it is for other, equally wealthy, nations. In the context of Miller’s ‘nation-centric’ approach, which in the sphere of global political morality typically interprets nations as the primary actors and tends to reduce individuals to their roles as members of particular nations, these reasons offer a very plausible explanation for the existence of the justice gap. But of course not everyone accepts this nation-centric view.

A different view, often referred to as the ‘cosmopolitan’ approach, eschews the priority of national membership and instead takes individuals qua individuals as the primary units of moral concern. Cosmopolitans do not deny the importance to some people of their national membership, just as they don’t deny the importance of family or friends. For cosmopolitans what is important is that the roles we have as members of particular families and particular nations do not determine the content of justice at the fundamental level. In practice this distinction between nation-centric and cosmopolitan views may not make much difference – whether or not it does depends on what responsibilities may give rise to duties...that we have good reason to perform, without being required to perform them as we are required to perform duties of justice...Duties of justice are enforceable, in the sense that third parties may be justified in applying sanctions to those who default on them”, Miller, National Responsibility and Global Justice, p.248.

on the substance of particular conceptions of these views. The real difference lies at the theoretical level – with the arguments that are produced by proponents of the two views in order to justify their substantive conclusions.

While I am broadly sympathetic to the cosmopolitan approach and its focus on the primacy of the individual, I think we need to be careful that in adopting such an approach we do not end up losing sight of the particular concerns that give significance to people’s lives. We are not just loci of preferences and desires, we are also people with particular allegiances, projects, and attachments. These commitments are often things that people have worked hard for, and invested a great deal of time and effort into, and developing a plausible theory of justice necessarily involves taking them into account in the right way.

In this essay I develop an approach to justice that allows us to incorporate this insight while maintaining a broadly cosmopolitan focus on the primacy of the individual. According to this approach, one way of explaining the justice gap is by appeal to the distinction between the personal and impersonal moral standpoints. As Thomas Nagel points out, fully satisfying the reasonable claims of the global poor in a world such as ours might entail imposing costs on the global rich that it would not be unreasonable of the latter to reject. The reason for this is not that the nation in which these wealthy individuals reside will unfairly suffer in cultural or economic terms compared to other nations, but that these well-off individuals, who have led their lives in a not obviously unjust or immoral way, who have spent large amounts of time and effort pursuing long term projects, who have developed valuable relationships, and who have cultivated certain preferences based on reasonable expectations of future satisfaction, may be forced to give up on their projects, hopes for the future, and perhaps even some of their relationships. Of course, from the purely impersonal standpoint that cosmopolitans are sometimes tempted to adopt, it is hard to appreciate the normative force of this reason. If the claims of the global poor are genuine claims of justice, it is not clear how the costs to the global rich of satisfying these claims could

make it reasonable for the latter to refuse to satisfy them. However, by distinguishing the impersonal moral standpoint from the personal moral standpoint and, crucially, by assigning independent roles within a conception of justice to the claims of justice that arise from the impersonal moral standpoint and the claims of justice that arise from the personal moral standpoint, the justice gap can, I believe, be explained entirely from within a cosmopolitan approach.

**IV. The dual-component model of distributive justice**

Explaining and vindicating the justice gap from a cosmopolitan perspective involves conceptualising justice along the lines of what I call the ‘dual-component model of distributive justice’. In order to develop and defend this model I begin with a detailed analysis of the concept of distributive justice itself. In chapters 4 and 5 I distinguish between four different interpretations of the concept of justice: the currency view; the institutional view; the coercion view; and the fairness view.\(^{21}\) The currency view of justice holds that distributive justice can be defined in terms of its concern with the distribution of particular things. I conclude that even when we define the currency of justice in the most general and abstract terms we can, the explanation for why matters concerning the distribution of a particular thing are matters of justice and not something else must rely on something other than the nature of the thing itself. The currency view therefore fails to provide a useful definition of justice. The institutional view of justice holds that the concept of justice can be defined by the fact that its constitutive principles apply only to institutions, and not (directly) to actions or distributions. I consider several arguments for this view and conclude that none of them is successful.

Having rejected the first two interpretations of justice in chapter 4 I turn my attention in chapter 5 to the two remaining interpretations: the coercion view and the fairness view. The coercion view of justice holds that justice is to be identified with that

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\(^{21}\) An ‘interpretation of a concept’ is different from a ‘conception’. One might ‘interpret the concept of justice’ as one that applies to the basic institutional structures of nation-states. A ‘conception’ of this particular interpretation of the concept provides a substantive account of how the basic institutional structure of a nation-state should be designed in order to count as just.
subset of our moral claims and demands whose fulfilment may be justifiably enforced through the exercise of coercion. This enforceable sub-domain of morality is picked out by a set of principles which specify the limits of justified coercion. Since these principles apply directly to actions the idea is that they can be used to generate normative recommendations about which acts are permissible and which acts are not permissible according to justice. The fairness view of justice, on the other hand, holds that justice is to be identified with what I refer to as the ‘ideal of basic distributive fairness’. Basic distributive fairness is itself a difficult concept to define. For now it will suffice to say that basic distributive fairness obtains when all existing goods and bads are distributed according to how they would be distributed by an ideally impartial observer if all moral, prudential, and practical constraints were removed and the impartial observer was thus able to distribute goods in exactly the way he wanted. The ideal of basic distributive fairness is defined independently of any consideration of the intrinsic qualities of the actions that might be necessary to realise it. Thus, unlike the coercion view of justice, the principle(s) that constitute the fairness view of justice are not intended to generate any action-guiding recommendations.

I argue that the coercion view and the fairness view both capture important aspects of the concept of justice, but that neither view on its own provides a complete and satisfactory account of justice. If all we have is a set of principles which tell us when the exercise of coercion is justified, then we will be unable to say when any particular distribution is truly fair (and hence just), and we will therefore be unable to work out what people should do (over and above what they can be justifiably be coerced to do) in order to realise such a distribution. On the other hand, if all we have is a conception of the ideal of basic distributive fairness, then in our efforts to realise this ideal we may end up infecting the distribution with injustice after all as we exercise unjustified coercion over people and thus fail to treat them with the respect they are due.

In chapter 6 I argue that the solution to the incompleteness of, respectively, the ‘pure’ coercion view and the ‘pure’ fairness view lies in combining them within a single
conceptual framework provided by the dual-component model of justice. The central claim on which the dual-component model is based is that there are two necessary conditions of a fully just distribution, each of which corresponds to one of the two views of justice which comprise the dual-component model: First, a fully just distribution must mirror the ideal of ‘basic distributive fairness’. Second, a fully just distribution must have been brought about without any violation of the principles of justified coercion. Satisfying the first condition requires a principle or set of principles which identify the qualities that a distribution must possess if it is to mirror the ideal of basic distributive fairness. Because these principles ‘apply’ directly to distributions I refer to this as the ‘distributive component’ of justice. Satisfying the second condition requires a principle or set of principles which specify the limits of justified coercion. Because these principles apply directly to actions I refer to this as the ‘interactional component’ of justice.

In chapter 7 I argue for a particular conception of the distributive component of justice. I claim that a distribution is only fully just when everyone has an equal opportunity for well-being, where a person’s ‘well-being’ is defined in terms of the satisfaction of their ideal personal preferences, and where a person has an ‘equal opportunity for’ well-being when she has an equally effective opportunity to successfully execute (one of) her most rational life plans. (A person’s ‘most rational life plan’ is the plan of life that offers the highest degree of ideal personal preference-satisfaction, and there may be several possible life plans that fit this description for a particular person). As a ‘welfarist’ conception of justice the principle of equality of opportunity for well-being is potentially vulnerable to what is known as the ‘fair shares objection’ to welfarism. At the end of chapter 7 I explain why the principle of equality of opportunity for well-being is not in fact vulnerable to the objection.

In chapter 8 I provide further support for the dual-component model by providing some examples of the role played by the interactional component. While I do not attempt to work out the detailed content of the principles of the interactional component I do discuss two specific considerations – freedom of occupation and (what
I call) ‘stability of expectation’ – which it seems likely the interactional component will ultimately have to be sensitive to. My discussion here is divided into two parts. In the first part I focus on situations in which the distributive component of justice is already satisfied and the practical problem we face is how best to maintain the ideal of basic distributive fairness (represented by the principle of equality of opportunity for well-being). I argue that considerations related to the value of freedom of occupation mean that it would be unjust to force people to do certain types of work, even if this is the only way to ensure that equality of opportunity for well-being is maintained. In the second part I focus on situations in which the distributive component is not already satisfied and the practical problem we face is not how to maintain the ideal but how to realise it in the first place. In this situation, as well as considerations related to freedom of occupation, we are going to have to consider the importance to people of having some degree of stability of expectation. To explain what the idea of stability of expectation involves, and to illustrate its importance for the theory of justice, I discuss a series of ‘divided world’ examples in order to show why it would unjust to embark on a wholesale disruption of people’s stability of expectation, even when this disruption is necessary in order to realise equality of opportunity for well-being.

It is important to notice that in both the situations discussed in chapter 8 it is always open to individuals to volunteer to act so as to either maintain or realise equality of opportunity for well-being. When they do so volunteer, there is a subsequent pay-off in terms of the maintenance or realisation of full distributive justice. The implication is that if they had not volunteered to act in this way, then not only would there have been a loss in terms of justice, but there would be nothing we could justifiably do to coercively prevent this loss.

V. Conclusion

Returning to the global justice trilemma, we can now see why the dual-component model represents an accommodationist strategy. The dual-component model is obviously compatible with the distributive claim, since the global distribution is clearly a long way from satisfying the ideal of equality opportunity for well-being. The
dual-component model is also compatible with the duty claim, since the claims that the well-off have as a result of the interactional component of justice go some way to protecting them against the coercively enforceable duties they would otherwise have as a result of the claims that the badly-off have in virtue of the distributive component. Finally, the dual-component model is also compatible with the conceptual claim, since it is fully compatible with the idea that claims of justice ground enforceable duties of justice. The trick is that claims of justice now go both ways. The global poor have claims of justice grounded in the distributive component of justice (i.e. claims to equality of opportunity for well-being). The global rich have claims of justice grounded in the interactional component of justice (e.g. claims to freedom of occupation and the protection of stability of expectation). These claims all have the potential to generate enforceable duties of justice. But in order to work out what duties of justice people actually have, we need to combine the claims within a single framework of distributive justice. This is how the dual-component model escapes the global justice trilemma.
(2) Justifying the Domestic Scope Restriction: The Failure of Statism

I. Introduction

We live in an age of global migratory potential – a time when a vast number of people have the physical capacity to move relatively quickly and easily between states. In this chapter I use this fact to motivate a powerful objection to so-called ‘statist’ conceptions of distributive justice.

Statism is the view that there is something normatively peculiar about the state which entails that the ‘domestic’ duties of justice that citizens owe to one another are significantly more demanding than the global duties of justice that citizens owe to non-citizens.22 Precisely what this greater demandingness consists in is a question I leave open. It might be that domestic duties have both positive and negative content, whereas global duties have only negative content. Or it might be that domestic duties are concerned with individuals’ relative standing, whereas global duties are concerned only with individuals’ absolute standing. Or it might be that domestic duties are egalitarian duties, whereas global duties are not.23 The important point is that although there are several different ways of explaining and elaborating the general distinction between more demanding and less demanding duties of justice, the distinction itself remains both theoretically and practically significant. And in light of this, we need some convenient way of referring to the two sides of the distinction. I shall refer to more demanding duties of justice (whatever their precise content) as falling under the scope of ‘strong norms of distributive justice’ and to less demanding duties (again, whatever

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22 Statism is thus to be distinguished from nationalism. Nationalists often agree with statists about the ‘domestic scope restriction’ – which holds that the demands of justice are stronger within states than without – but they disagree with the characteristic statist justification for this restriction which appeals directly to the normative peculiarity of the state, rather than to the (normatively more basic) nation that underpins it. I discuss the nationalist justification for the domestic scope restriction in chapter 3. For discussion of the idea that a ‘missing nationalist premise’ underlies many ostensibly statist positions, see, K. C. Tan, Justice Without Borders: Cosmopolitanism, Nationalism and Patriotism, (Cambridge: Cambridge University Press, 2004), pp.177-9.

their precise content) as falling under the scope of ‘weak norms of distributive justice’. To emphasise: there is no hard and fast rule for distinguishing between strong and weak norms of distributive justice – it all depends on the context of the discussion in which these terms are employed. In the context of the current discussion, statism is the view that strong norms of distributive justice only apply between citizens, whereas weak norms of distributive justice, if they apply at all, apply between citizens and non-citizens.

The objection to statism that I develop in this chapter focuses initially on a particularly common and influential statist argument based on the notion of reciprocity. I use the fact of global migratory potential to show how the passive respect for a state’s borders displayed by billions of non-citizens plays at least as important a role in supporting the stability of the conditions necessary for wealth creation within that state as the passive respect towards the state’s domestic law shown by the state’s own citizens. If, as proponents of reciprocity-based justice hold, strong norms of distributive justice only apply between those who uphold schemes ‘without which no one would have a satisfactory life’ then strong distributive justice is fundamentally global, not statist, in scope.

Having demonstrated the failure of the reciprocity-based argument for statism I go on to analyse the general problem facing any attempt to justify the domestic scope restriction. Purported justifications for statism must satisfy three conditions: they must demonstrate that strong norms of distributive justice are triggered when people relate to each other in certain specific ways; they must demonstrate that citizens do relate to each other in these specific ways; and they must demonstrate that citizens and non-citizens do not relate to each other in these specific ways. In a world characterised by the fact of global migratory potential the task of satisfying these three conditions is much more difficult than many proponents of statism seem to realise. I argue that their complacency can be explained by the institutionalist bias inherent in their methodology.

24 For ease of exposition I shall sometimes abbreviate these phrases even further to, respectively, ‘strong distributive justice’ and ‘weak distributive justice’.
By focusing on the formal role or function of institutions, rather than the actual experience of individuals who are subject to these institutions, traditional justifications for statism remain blind to the subtleties and complexities of the normative terrain they ostensibly aim to map out. Only when we reject the institutionalist view and, instead, adopt an approach that is more sensitive to the particular circumstances of individuals, can we truly appreciate the scale of the challenge that purported justifications for statism must overcome. The challenge has not been met so far, and I argue that it is unlikely to be met in the future.

The chapter is structured as follows: In the next section, I distinguish two contrasting approaches to theorising about justice – the relational approach and the nonrelational approach. I then explain in section III why statism has become the dominant form taken by relational theories of justice, and I outline in more detail the general justificatory strategy employed by its proponents. In the following two sections I narrow the focus of my argument in order to develop my objection based on the fact of global migratory potential (I shall call this the ‘immigration objection’ to statism). In section IV I present the version of reciprocity-based statism that will form the main target of my critique, namely, the extremely clear and persuasive version put forward recently by Andrea Sangiovanni. In section V I offer a detailed refutation of Sangiovanni’s position by showing how the immigration objection is fatal for his argument. In section VI I defend the immigration objection from a potential rejoinder and I clarify the contingent nature of the argument in order to pre-empt a potential misunderstanding about how the objection works. I then explain in section VII why the immigration objection should be taken seriously, not just by those who favour reciprocity-based justifications for statism, but by all proponents of the statist doctrine.

II. The scope of justice: relational vs. nonrelational approaches

Emerging from the literature are two distinct and contrasting approaches to theorising about justice, the choice between which has an important role to play in
defining the scope of strong distributive justice. The two approaches have been labelled under a variety of different names and there is no sign yet of any terminological consensus. For the purposes of the current discussion I shall label them the ‘relational’ approach and the ‘nonrelational’ approach.

The two approaches reflect two different theories about the grounding of fundamental principles of justice. According to proponents of the relational approach, fundamental principles of justice are grounded in particular ‘contexts of distribution’. A context of distribution is a distinct kind of human relationship or sphere of interaction – such as a family, a church, a nation, or a trade bloc – within which both the way people act and the goods they produce and exchange can be said to have certain specific meanings and values. According to the relational approach, the way in which we work out the scope and content of the principles of justice which regulate the distribution of goods within these contexts is by interpreting the point of the relevant practice and/or the value of the relevant relationship and/or the meaning of the relevant goods. In each case the aim is to uncover the ‘relationship of appropriateness’ which links a context and its regulative principle(s) and which explains why the scope

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26 For the sake of brevity, I shall from this point on use the phrase ‘the scope of justice’ in place of the longer phrase ‘the scope of strong distributive justice’. The reader should continue to bear in mind, however, that many statists hold that weak distributive justice applies globally.

27 These terms (which I borrow from Sangiovanni, 'Global Justice', p.5) represent what I think is the clearest and most accurate way of labelling the two approaches. They are preferable, for instance, to the terms ‘contextualist’ and ‘universalist’, which were first proposed by David Miller in an earlier discussion of the distinction (see D. Miller, 'Two Ways to Think About Justice', Politics, Philosophy and Economics, 1 (1) (2002), 5-28). The main problem with Miller’s terminology is that it risks being confused with other well-known dichotomies involving the idea of ‘universalism’ (e.g. the distinction between universalism and particularism and the distinction between universalism and relativism). A third way of drawing the distinction, which has been adopted by a number of recent authors, is between ‘practice-dependent’ and ‘practice-independent’ approaches to justice (see, e.g. M. Ronzoni, 'The Global Order: A Case of Background Injustice? A Practice-Dependent Account', Philosophy and Public Affairs, 37 (3) (2009), 229-256; A. Sangiovanni, 'Justice and the Priority of Politics to Morality', Journal of Political Philosophy, 16 (2) (2008), 137-164). The problem with this way of drawing the distinction is that it forces us to refer to some principles of justice as ‘practice-dependent’ when what they are really dependent on is not some kind of dynamic rule-governed activity (as implied by the term ‘practice’), but, rather, some kind of non-rule-governed relationship, based on shared meanings or shared values. The term ‘relational’ captures both of these possibilities (activity and relationship) and is thus to be preferred on these grounds.

28 Miller, 'Two Ways to Think About Justice', p.10.

29 For a detailed description of this kind of interpretive exercise, see, e.g., A. James, 'Constructing Justice for Existing Practice: Rawls and the Status Quo', Philosophy and Public Affairs, 33 (3) (2005), 281-316; Sangiovanni, 'Justice and the Priority of Politics to Morality'.
and content of the principle(s) are what they are.\textsuperscript{30} Not every context of distribution grounds its own principle(s) of justice, of course, and those that do are open to various different interpretations. The key point is that, on the relational approach, in order to explain why a purported principle has the scope or content its proponents claim it does, the justification must ultimately refer back to the relevant context of distribution, there can be no appeal to some overarching, more fundamental principle of justice.\textsuperscript{31}

Proponents of the nonrelational approach, in contrast, deny that principles of justice are grounded in contexts of distribution. Instead, they believe that we can identify overarching, fundamental principles of justice that ‘apply in every circumstance in which questions of justice arise, regardless, for instance, of the specific type of resource that is being distributed, the institutional setting in which the distribution is taking place, and so on’.\textsuperscript{32} This leaves open a number of questions, of course, including the question of what the correct nonrelational grounds of the fundamental principles of justice are. Well-known answers to this question include the libertarian claim that the fundamental principles of justice are grounded in our recognition of each individual’s right of self-ownership, and the luck-egalitarian claim that the fundamental principles of justice are grounded in our recognition of the unfair effects of brute luck on persons’ prospects. Both of these views are nonrelational because the quality or condition that grounds the fundamental principles of justice in each case is conceptually independent of the social or political context within which it is observed.

My own view is that the nonrelational approach is the right way to theorise about justice. But the relational approach has received a number of sophisticated defences in the recent literature, and these arguments demand close attention in their own right. My aim in this essay is therefore not to defend the nonrelational approach directly but, rather, to demonstrate that the relational approach, at least in the ‘statist’ form it typically takes, is not as compelling as its proponents think.

\textsuperscript{30} Miller, ‘Two Ways to Think About Justice’, p.11.
\textsuperscript{31} Ibid., p.11.
\textsuperscript{32} Ibid., p.9.
III. Statism: the most common form of relational theory

I suggested above that contexts of distribution can take a plurality of different forms (I gave the examples of families, churches, nations, and trade blocs). While this is, strictly speaking, correct, there is one particular context of distribution that has attracted far more attention from relational theorists than any other: the contemporary nation-state. Allen Buchanan may be right that the old Westphalian world of economically self-sufficient, distributionally autonomous and politically homogenous states has ‘vanished’, but it remains true that the institutions of contemporary states are (or, at least, have the potential to be) the primary influence on individuals’ life-prospects. The modern state’s ability to coordinate action, collect information, transfer goods, and impose its will is unrivalled. As contexts of distribution go, then, the state is particularly salient.

What follows from the fact that the state is an especially important context of distribution? To answer this question we need to know how proponents of statism typically go about satisfying the three conditions I referred to in the introduction, and which I shall label respectively as the ‘normative condition’, the ‘inclusivity condition’, and the ‘exclusivity condition’.

It is perhaps rather surprising, bearing in mind the emphasis placed by the relational approach on the context-sensitivity of principles of justice, that the normative condition can be satisfied without reference to the state at all. In order to satisfy the normative condition of statism what needs to be shown is that some of the ways in which people can conceivably relate to each other are such that, when people do relate to each other in these ways, their interactions should be regulated by strong norms of distributive justice. Strictly speaking, this can be an entirely a priori exercise, since it can be carried out even if no one actually relates to each other in these ways. This is not to deny, of course, that the fact that people do actually relate to each other in the specified ways lends support to the argument. But it is important to separate the conceptual truth that underlies the normative condition from the real-life examples in which this

condition is satisfied. Two common attempts to satisfy the normative condition of statism are represented by the ‘reciprocity-based approach’ and the ‘coercion-based approach’. The former approach claims that strong norms of justice apply to people who willingly contribute to the conditions necessary for the accumulation of certain benefits, whereas the latter approach claims that strong norms of justice apply to people whose autonomy is violated by a central coercive authority.\(^{34}\)

Assuming for now that both these attempts to satisfy the normative condition are successful, the next task for the proponent of statism is to demonstrate that, for either approach, the inclusivity and exclusivity conditions are satisfied. This is where the element of social interpretation that is characteristic of the relational approach to justice becomes relevant. The idea is that through an interpretive analysis of the role and function of the state (the details of which need not concern us here),\(^{35}\) the statist theorist comes up with a characterisation of the normative peculiarity of the state which, when combined with the particular conception of the normative condition already in hand, will result in a theory that explains why only the citizens of the state, and not non-citizens, relate to each other in a way that triggers strong norms of justice. Proponents of the reciprocity-based approach, for instance, typically characterise the state as an exclusive cooperative venture for the mutual advantage of citizens that is unique in its ability to provide the stable conditions necessary for wealth creation. Proponents of the coercion-based approach, on the other hand, typically characterise the state as constituting a central coercive authority that violates the autonomy of its members but not the autonomy of non-members. When we combine the former ‘cooperative practice view’ interpretation of the state with the reciprocity-based view, or the latter ‘political coercion view’ interpretation of the state with the coercion-based view, the domestic scope restriction follows, or so we are told, as a matter of course.\(^{36}\)

\(^{34}\) The best-known statement of this view can be found in, M. Blake, ‘Distributive Justice, State Coercion, and Autonomy’, Philosophy and Public Affairs, 30 (3) (2001), 257-296.

\(^{35}\) See footnote 29.

\(^{36}\) The ‘cooperative practice view’ and the ‘political coercion view’ have been identified by a number of different theorists under a variety of names. The specific labels I use here are borrowed from Miller, ‘Justice and Boundaries’, Politics, Philosophy and Economics, 8 (3) (2009), 291-309, but see also, C. Barry and L. Valentini, ‘Egalitarian Challenges to Global Egalitarianism: A Critique’, Review of International Studies, 35 (3) (2009), 485-512, and, S. Caney, ‘Global Distributive Justice and the
However appealing one finds the methodology sketched above, what should be clear is that any particular conception of statism is vulnerable to criticism at (at least) three distinct points: in its attempt to satisfy the normative condition, in its attempt to satisfy the inclusivity condition, and in its attempt to satisfy the exclusivity condition. No doubt different conceptions of statism are more vulnerable on some of these points than others. In what follows, however, my objective is to exploit the third point of vulnerability in particular. My ultimate aim is to use the fact of global migratory potential to show that any version of statism will have difficulty satisfying the exclusivity condition. Before that, though, I initially develop the immigration objection by applying it to the reciprocity-based approach to show that, when it is combined with the cooperative practice interpretation of the state, the exclusivity condition cannot be satisfied. I focus on the reciprocity-based approach rather than the coercion-based approach partly because I think it is the more plausible of the two, and partly because the coercion-based approach has already been subjected very recently to detailed critical scrutiny.37

IV. The reciprocity-based justification for statism

As with so many of the views widely held by political philosophers, the best-known proponent of the claim that strong norms of justice are triggered by considerations of reciprocity is John Rawls:

The intuitive idea [behind Justice as Fairness] is that since everyone’s well-being depends upon a scheme of cooperation without which no one could have a satisfactory life, the division of advantages should be such as to draw forth the willing cooperation of everyone taking part in it, including those less well situated.38

Rawls thought that the only fair way to ‘draw forth the willing cooperation of everyone taking part’ in a joint venture for mutual advantage was to include them in the


scope of a scheme of strong distributive justice. And since Rawls is the best-known proponent of statism it is plausible to interpret his argument concerning the link between cooperation, reciprocity, and inclusion in a scheme of strong distributive justice, as representing his answer to the normative condition of statism. But even if this interpretation is correct, and even if one is convinced by Rawls’s answer to the normative condition of statism, his view cannot be considered a fully-fledged version of reciprocity-based statism until we have some explicit answers to the inclusivity and exclusivity conditions. Rawls was obviously aware of this. But, rather than argue the point, he (in)famously chose to assume the problem away.\(^{39}\) In the absence of a substantive argument for this assumption it would be unfair, not to mention inaccurate, to criticise Rawls’s view as if it was a conception of reciprocity-based statism.

Compare the quote from Rawls with the following quote from Andrea Sangiovanni:

>We owe obligations of egalitarian reciprocity to fellow citizens and residents in the state, who provide us with the basic conditions and guarantees necessary to develop and act on a plan of life, but not to non-citizens, who do not.\(^{40}\)

Whereas Rawls talks loosely about ‘everyone’ (in part, no doubt, because he has already assumed the boundaries of the world he is talking about) Sangiovanni explicitly distinguishes between those who are inside and those who are outside the cooperative scheme which provides the ‘conditions and guarantees necessary to develop and act on a plan of life’. Sangiovanni thus offers us explicit answers to all three conditions of statism. Before applying the immigration objection to Sangiovanni’s view it will be helpful to reconstruct the precise steps his argument takes. The first of five premises recalls another core Rawlsian idea about the arbitrariness of talents:

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\(^{40}\) Sangiovanni, ‘Global Justice’, p.20.
(P1) Talented individuals do not deserve their place in the distribution of native endowments.\textsuperscript{41}

Pi plays a conditional, negative role in the argument. It says that \textit{if} the exercise of talent creates wealth, then the talented have no prior moral claim to this wealth simply because it was \textit{their} talent that was exercised. Of course, we still need a positive argument for redistributing this wealth if such redistribution is to avoid the charge of arbitrariness, and this is where the idea of reciprocity comes in.\textsuperscript{42} Talents count for little (financially at least) unless there is a market for them – both in the sense that they are recognised as talents in the first place (perhaps because of cultural idiosyncrasies or changes in fashion) and that, once recognised, they can be used to create wealth. The positive part of Sangiovanni’s argument, which rests on this idea, consists of four further premises. The first two empirical premises are intended to satisfy the inclusivity condition:

(P2) In the world as it is now, the stable conditions necessary for wealth creation through the exercise of talent are provided by the institutions that comprise modern states.\textsuperscript{43}

(P3) In a number of ways – for example, ‘through taxation, through participation in various forms of political activity, and through simple compliance’ – citizens maintain the institutions that comprise modern states.\textsuperscript{44}

The fourth premise is intended to satisfy the normative condition:

\textsuperscript{41} See Rawls, \textit{A Theory of Justice}, p.89.
\textsuperscript{42} ‘From the bare assumption that [talents are] morally arbitrary, no obligation to share follows. The lucky ones could admit that their luck is morally arbitrary, and still ask “Why share?”’ A. Gibbard, ‘Review: Constructing Justice’, \textit{Philosophy and Public Affairs}, 20 (3) (1991), 264-279, p.269.
\textsuperscript{43} ‘When well-functioning…basic state capacities, backed by a system of courts, administration, police, and military, free us from the need to protect ourselves continuously from physical attack, guarantee access to a legally regulated market, and establish and stabilise a system of property rights and entitlements’, Sangiovanni, ‘Global Justice’, p.20.
\textsuperscript{44} Sangiovanni, ‘Global Justice’, p.20.
(P4) The principle of reciprocity: those who willingly contribute to the conditions necessary for the accumulation of benefits are owed a fair share of these benefits.

It is important to emphasise that what is doing the work in Sangiovanni’s argument is not the fact that citizens are coerced by the state into paying taxes, participating in political activity, and complying with laws and social rules. Part of the reason why Sangiovanni thinks that reciprocity-based accounts of statism are preferable to coercion-based accounts lies in the fact that citizens can (and usually do) do all of these things without their compliance being guaranteed by a coercive authority. I shall say more about this important point below.

The fifth and final premise of Sangiovanni’s argument is intended to satisfy the exclusivity condition:

(P5*) Only citizens, and not non-citizens, contribute to the conditions necessary for wealth creation in a particular state.

Because the state offers the stable conditions necessary to extract value from individuals’ talents and because the state, in turn, is maintained by its members (citizens), and only its members, the demands of reciprocity entail the statist conclusion that:

(SC) Only the distribution of goods between citizens (and not non-citizens) should be regulated by strong norms of distributive justice.

The problem with this argument is that, even if we accept P1-P4, the statist conclusion does not follow, because P5* is false. If my argument in the next section is right, what it shows is that Sangiovanni’s doctrine of reciprocity-based statism actually
entails that strong distributive justice applies to both members and non-members of the state and, thus, that the scope of (strong) justice is global rather than statist.

V. Refuting reciprocity-based statism

Let us begin with an example of Sangiovanni’s involving two textile workers, a Slovenian and an Italian. As Sangiovanni himself points out, the interdependence of most national economies now means that action affecting the competitiveness of an industry in one state is likely to have knock-on effects in other states. If we make certain (possibly counterfactual) assumptions about the relative size of the textile industries in these two countries it is quite possible that we can show that the continued employment of the Italian textile worker depends ‘more on the decisions affecting labour costs taken by the Slovenian government and Slovenian textile manufacturers than it does on the Italian state’.\(^{45}\) In such a situation – one in which the conditions affecting the Italian textile worker’s ability to make money from her textile-manufacturing skills are decided primarily by elements within the Slovenian state – Sangiovanni’s argument would appear to imply the existence of duties of justice between the Italian textile worker and elements within the Slovenian state, rather than between the Italian textile worker and other Italian citizens. This would, of course, make Sangiovanni’s theory a relational justification of cross-border, rather than statist, justice.\(^{46}\) But Sangiovanni explicitly denies this implication:

…liability to influence, even if ‘profound and pervasive’ is not sufficient for equality as a demand of justice to apply. Equality applies only in circumstances in which we share in the reproduction of a legal-political authority that is ultimately responsible for protecting us from physical attack and sustaining a stable system of property rights and entitlements.\(^{47}\)

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\(^{45}\) Sangiovanni, ‘Global Justice’, p.34.
\(^{47}\) Sangiovanni, ‘Global Justice’, p.34.
It is certainly true that we do not normally think of people contributing to the continuity and stability of states of which they are not members, at least not in a way that would entitle them to inclusion in a scheme of fair reciprocity. Take our Italian textile worker (call her T); she earns her money (in Italy), she pays her (Italian) taxes and she complies with the (Italian) law. It seems obvious here that she is playing her part in maintaining the smooth running of the Italian state. What also seems obvious is that a Slovenian textile worker (call her S) who pays Slovenian taxes and obeys Slovenian laws does not play any part in maintaining the Italian state.

Pursuing this thought a bit further, however, perhaps we can say that, by choosing not to migrate into Italy, S plays some part in maintaining the smooth running of the Italian state. Of course, this seems implausible when we consider that, in practice, whether she migrates or not will make no difference to the smooth running of the Italian state – it could easily accommodate her without losing the ability to function effectively. But what is also true is that if T ceases to pay her taxes and stops obeying the law more generally, it will have a similarly negligible effect on the smooth running of the Italian state. The state could easily absorb T's non-compliance without losing the ability to function effectively. Now it looks like neither S nor T plays a significant role in maintaining the functioning of the Italian state, which seems absurd – the Italian state is not a living organism that maintains itself.

The obvious but important point to note here is that, although the contributions of one person, or even one hundred people, cannot maintain a (large, modern) state, the contributions of much larger groups can and do. T's contributions and compliance can plausibly be interpreted as helping to maintain the Italian state only when combined with the similar behaviour of many millions of Italian citizens. Put another way, if several million Italians all stopped paying taxes and began generally disobeying the law, public order would break down and the conditions necessary for wealth creation would disintegrate. Unfortunately, this fact still fails to distinguish T from S. To see why, consider the indirect effects of the respect shown by S for the rules governing the crossing of the Italian border when this is combined with the similar
respect shown for these rules by the millions of other Slovenians and the billions of other non-citizens around the world. While some (large) states are able to incorporate significant numbers of migrants without any obvious negative effects (and perhaps even some positive effects), it is generally agreed that there is a limit to how many migrants a state can accept before public order breaks down and the state is no longer able to guarantee the conditions necessary for wealth creation. A number of writers have plausibly claimed that an unprecedented influx of hundreds of millions of migrants into any particular state over a short period of time would be enough to cause this effect. In light of this it would appear, once again, that T and S stand in a similar relation to the Italian state as far as the doctrine of reciprocity-based statism is concerned, and the duties of justice that apply to one, ceteris paribus, apply to the other.

There is another distinction to be made here that might appear to offer greater comfort to the proponent of statism. It is a distinction between the kinds of contributions that T and S make to the Italian state. Sangiovanni himself mentions four kinds of contribution that individuals can make to the running of the state: compliance, trust, resources and participation. The first two of these, compliance and trust, are negative contributions. The last two, resources and participation, are positive contributions. T and S are only similar insofar as they make negative contributions to

48 Perhaps unsurprisingly, there is little consensus in the empirical literature over exactly what the political, social and economic effect of immigration on developed states is, even at its current, relatively modest level. What seems to be true in general is that, if there are any benefits to modest levels of immigration, they are distributed unevenly, and tend to be short-term rather than long-term benefits (see, e.g., B. Chiswick, 'Illegal Immigration and Immigration Control', The Journal of Economic Perspectives, 2 (3) (1988), 101-115; D. Coleman and R. Rowthorn, 'The Economic Effects of Immigration into the United Kingdom', Population and Development Review, 30 (4) (2004), 579-624). Joseph Carens refers to this as the ‘public order problem’, J. Carens, 'Migration and Morality: A Liberal Egalitarian Perspective', in B. Barry and R. E. Goodin (eds.), Free Movement: Ethical Issues in the Transnational Migration of People and of Money, (University Park: Pennsylvania State University Press, 1992), 25-47, p.30. Carens’s claims about the public order problem are echoed, among others, by, V. Bader, 'The Ethics of Immigration', Constellations, 12 (3) (2005), 331-361, p.348; A. Abizadeh, 'Liberal Egalitarian Arguments for Closed Borders: Some Preliminary Critical Reflections', Ethics and Economics, 4 (1) (2006), 1-8, p.3; M. Weiner, 'Ethics, National Sovereignty, and the Control of Immigration', International Migration Review, 30 (1) (1996), 171-197, pp.172-3. It is important to distinguish the public order problem raised by the possibility of massive levels of immigration from the issue of whether or not high, though not massive, levels of immigration necessarily constrain the state’s ability to sustain a welfare state. The latter issue raises distinct normative problems which I do not address here (for further discussion see, Abizadeh, 'Liberal Egalitarian Arguments', pp.4-8, and the discussion in, G. Freeman, 'Migration and the Political Economy of the Welfare State', Annals of the American Academy of Political and Social Science, 485 (1986), 51-63).
the running of the state; first, through compliance with the laws of the state (obeying civil and criminal laws in T’s case, obeying immigration laws in S’s) and second, being trusted not to break these laws in future so that the state and its members can make plans on the assumption of long-term stability. T and S also differ, however, because only T makes positive contributions to the running of the state in the form of resources (e.g. taxes) and participation (e.g. voting, and the numerous quotidian actions and gestures that maintain a civic culture). Is it the case, then, that the immigration objection can be avoided simply by shortening the list of ‘types of contributions to the running of the state’ to include only positive contributions? To see why not, it is necessary to introduce an extra bit of complexity into the argument and analyse Sangiovanni’s response to the suggestion that reciprocity-based statism might not be able to generate duties of justice in a night-watchman state.

A night-watchman state does not claim responsibility for providing many basic goods and services to its citizens (and residents). Under these circumstances, individuals, particularly the well-off, will develop their talents and abilities through purely private means (private education, health care, transportation and so on).\(^{50}\) Given that these people ‘do not depend on other citizens and residents for the basic conditions necessary for them to flourish’, it appears we are unable to say that duties of egalitarian reciprocity apply to them.\(^{51}\)

Sangiovanni’s rejoinder to this response is that the empirical premise on which it relies is false. Duties of egalitarian reciprocity \emph{do} apply to the well-off members of the night-watchman state because their prosperity \emph{does} depend, to a considerable extent, on the actions of other citizens. To emphasise this point Sangiovanni presents us with a revised list of three contributions citizens make to the running of the (night-watchman) state: compliance with extant private (civil) law; paying tax to finance the military, police and legal system; and, in many cases, military service. This ‘thin’ list of contributions is,

\(^{50}\) Sangiovanni, ‘Global Justice’, p.35.

according to Sangiovanni, still enough to justify the inclusion of the contributors in a system of reciprocal justice.

On closer inspection, however, it becomes clear that the only relevant contribution here is the first one: compliance with extant private law. We can prove this by using an important idea I mentioned briefly at the end of the last section; the idea that, as Sangiovanni puts it, ‘coercion is not a necessary condition for equality as a demand of justice to apply’.\textsuperscript{52} To illustrate this, Sangiovanni asks us to imagine an internally just state where, in the wake of a terrible terrorist attack, ‘all local means of law enforcement – police, army, and any potential replacements – are temporarily disarmed and disabled’. In the post-attack state:

Crime rates increase, compliance with the laws decreases, but society does not dissolve at a stroke into a war of all against all. Citizens generally feel a sense of solidarity in the wake of the attack, and a desire to maintain public order and decency despite the private advantages they could gain through disobedience and non-compliance…The laws still earn most people’s respect: the state continues to provide the services it always has; the legislature meets regularly; laws are debated and passed; contracts and wills drawn up; property transferred in accordance with law; disputes settled through legal arbitration, and so on.\textsuperscript{53}

Sangiovanni initially uses this hypothetical scenario to illustrate the superiority of the reciprocity-based argument for statism over the coercion-based argument. If nothing in our lives changes when the coercive force of the state is removed but (as Sangiovanni argues at length) the requirements of justice remain, it seems that the autonomy principle, which forms the central plank in the coercion account,\textsuperscript{54} is not doing any work. But notice another implication of the post-attack state scenario: if there is no role for the military or police force, then there is no need for citizens to contribute to their upkeep. Imagine the state in this example is the night-watchman state we were considering earlier. According to Sangiovanni, citizens in the night-

\textsuperscript{52} Sangiovanni, ‘Global Justice’, p.10.
\textsuperscript{54} See, Blake, ‘Distributive Justice, State Coercion, and Autonomy’.
watchman state were included in the scheme of justice because they complied with the
law and they contributed to the state's powers of enforcement. After the attack, this
second condition is no longer relevant. The only contribution to the running of the
state that the citizens now make is to comply with the extant private law. Indeed, on
reflection, it seem obvious that this is the only requirement that matters – after all, the
only reason for maintaining a capacity for law enforcement is the possibility that
someone will break the law, a possibility that is, *ex hypothesi*, no longer of any concern.
Therefore, if the citizens of the night-watchman state were entitled to a share in the
wealth of the well-off when the state's enforcement powers were in place, their
entitlement should remain when the state’s enforcement powers no longer exists.

The first part of Sangiovanni's argument was laid out in steps P1-P5* above. We can now replace P5* with the new premise regarding the night-watchman state:

(P5) The citizens of a night-watchman state contribute to the conditions
necessary for wealth creation through their compliance with the (non-
coercively imposed) law.

From P4 (the original principle of reciprocity) and P5, we get:

(P6) Willing compliance with the law of the night-watchman state is sufficient
to entitle citizens of the night-watchman state to a share in the wealth of the
well-off members of that state.

From P6 we can derive:

(P7) *The modified principle of reciprocity*: Willing compliance with rules that are there
to guarantee the stability and continuity of the conditions necessary for
wealth-creation is sufficient to qualify individuals for inclusion in a scheme
of strong distributive justice with the well-off.\(^{55}\)

\(^{55}\) It may well be that non-compliance with extant laws is sometimes necessary to maintain the
conditions necessary for wealth creation (since these laws may be unjust, inefficient, or simply
outdated, and may therefore work contrary to the goal of creating and maintaining the conditions
necessary for wealth creation). If it is in fact true that non-compliance with extant laws is
By combining P7 with P8 and P9:

(P8) The immigration laws of a state are an important part of the overall system of laws which guarantee the stability and continuity of the prerequisites for wealth-creation.

(P9) (Nearly) all individuals who are not citizens of a state willingly comply with that state’s immigration laws.

We can ultimately deduce the non-statist conclusion:

(NSC) Citizens and non-citizens of a particular state qualify for inclusion in a scheme of strong distributive justice with the well-off members of the state in question.

The argument set out above shows that non-citizens, as well as citizens, play a part in maintaining the stable environment for wealth creation that exists within particular states and, thus, according to the reciprocity-based conception of justice, non-citizens, as well as citizens, should be included in the scope of the principles (the principles of justice) that determine how the benefits which are consequently accrued are to be distributed.

VI. Refining the immigration objection

Sangiovanni is sympathetic to the claim that his argument gives us no reason to forcibly exclude (all) noncitizens at the border. His response is that his argument ‘is in fact most compatible with a prima facie claim in favour of open borders’. At first glance this implication of the reciprocity-based argument would appear to defeat the immigration objection, since, as the modified principle of reciprocity (at P7 above) (sometimes) the best or only way to maintain the conditions for wealth creation then this positively supports the immigration objection, since it is obvious that both citizens and non-citizens have the power to affect the state through non-compliance. The much more difficult claim to defend, and which I have attempted to defend in this section, is the claim that citizens and non-citizens maintain the conditions necessary for wealth creation through compliance.

states, inclusion in the scope of strong distributive justice is only owed to those who contribute to the conditions necessary for wealth creation by complying with the relevant rules. In a world of open borders there are no relevant rules applying to non-citizens and, thus, there is no reason to include them in the scope of justice.

However, Sangiovanni immediately qualifies his initial statement by admitting that the ‘prima facie claim in favour of open borders’ is ‘subject to the proviso that an open immigration policy not undermine the capability of both the receiving and the sending state to provide [the conditions necessary for wealth creation]’.\(^57\) The introduction of this proviso exposes Sangiovanni’s argument once again to the full force of the immigration objection. Fully open borders, as we have seen, remove all the rules governing the crossing of a state’s borders and, in doing so, remove any grounds we might have had for including non-citizens within the scope of justice. The proviso simply puts these rules – albeit in a modified, weaker form – back in place. Indeed, the very fact that the proviso is deemed necessary emphasises just how important the role of non-citizens is in maintaining the continued stability of the conditions necessary for wealth creation within a particular state. Reciprocity-based statism holds that when citizens respect domestic laws whose point is to guarantee the stability of the conditions necessary for wealth creation then they are entitled to inclusion in a scheme of strong distributive justice with other citizens, but when non-citizens respect immigration laws whose point is to guarantee the stability of the conditions necessary for wealth creation, no such entitlement follows. The immigration objection exposes this fundamental inconsistency at the heart of the reciprocity-based argument for statism.

Before going on to explain, in the next section, how the immigration objection raises a challenge that must be faced by all arguments for statism, I want to pre-empt a potential confusion that might arise over the way the objection works. Although it may seem as though the immigration objection relies on facts about the migratory intentions of non-citizens, this is a mistake. It makes no difference to the success of the objection whether millions (or billions) of non-citizens want to migrate into a particular state or

\(^57\) Sangiovanni, 'Global Justice', p.37.
This is because, as we have already noted, what triggers the demands of reciprocity-based justice is merely the fact that people are complying with rules that are there to guarantee the stability and continuity of the conditions necessary for wealth-creation – there is no reference to the reasons why people comply with these rules.

In order to see why this is, recall Sangiovanni’s example of the state whose law enforcement powers have been disabled by terrorists. The reason Sangiovanni gives for why citizens continue to comply with the law in the post terror attack state is that, despite the private advantages each could gain through disobedience and noncompliance, they share a ‘sense of solidarity’ and a ‘desire to maintain public order and decency’. There is, however, nothing in his argument which hangs on these particular reasons for compliance being operative. The explanation might just as well be that most people felt that changing their behaviour was too much effort, or even that it just never occurred to them that they might benefit by breaking the rules. As far as reciprocity-based justice is concerned, what matters is that individuals comply with the rules which are there to guarantee the stability of the conditions necessary for wealth creation; the reasons why they comply are irrelevant. Thus, when we turn our attention to the billions of individuals who respect the rules governing migration into a particular state (e.g. by not attempting to migrate illegally), and we ask whether they qualify for inclusion in a scheme of strong distributive justice with the members of that state, we can ignore what reasons they have for respecting the rules, and focus purely on the fact that they respect them.

The immigration objection would obviously be toothless if it did depend on this contingency. For while there is widespread agreement in the empirical literature that ‘migration pressure’ – the number of people actively seeking to migrate – is not only increasing but will continue to increase for some time, there is no suggestion that migration pressure is so great that, were states to fully open their borders, we would witness the kind of mass influx of hundreds of millions of migrants referred to by the immigration objection. See, R. Brubaker, ‘International Migration: A Challenge for Humanity’, *International Migration Review*, 25 (4) (1991), 946-957, pp.946-8; R. Appleyard, 'The Future of Migration', *International Migration Review*, 21 (1) (1987), 128-154, p.129.


No doubt the reason many people decide not to migrate is because of the anti-immigration policies of potential destination states. This thought is encouraged by the fact that, contrary to popular belief, the ability of states to restrict immigration is by no means declining and, indeed, is probably stronger than it has been at any time in the past. (see, e.g., C. Joppke, *Immigration and the Nation-State*, (Oxford: Oxford University Press, 1999), p.263; G. Freeman, 'Can Liberal States Control Unwanted Migration?' *Annals of the American Academy of Political and Social Science*, 534 (1994), 17-30. It might be objected that the EU provides an obvious counter-example to this claim, since the EU’s
What the immigration objection *does* depend on, however, is the *physical capacity* of non-citizens to migrate into the state in question (what I called in the introduction the ‘fact of migratory potential’). In a world without any migratory potential – i.e. a world in which it is physically impossible for people to move between states – the immigration objection would fail, because there would be no meaningful sense in which noncitizens could ‘respect’ the rules governing the crossing of state borders. We can distinguish four different factors which might be thought to have an effect on the capacity that individuals have to move between states: (1) Physical factors – how far away states are from each other and the type of terrain that separates them; (2) Geographical factors – the number of people living in each state and where they are located; (3) Technological factors – the means that people have to travel between states; (4) Institutional factors – the man-made obstacles to movement between states.

Migratory potential is a function of the first three factors only. Imagine a world populated by a similar number of states as exist today, but in which each state exists on its own planet, where the distance between each planet is several million miles, and where no state has yet developed the power of flight, let alone space travel. In such a world of single-state planets there is clearly no migratory potential. Now imagine that a new form of quick, cheap, and relatively easy space travel is invented more or less simultaneously in each state. Almost immediately, migratory potential is hugely increased. Now, the governments of each state might welcome this development and do nothing to limit freedom of movement between states. Or they might be terrified by the potential consequences of this new technology and place severe restrictions on its use. While the latter response would clearly make it much more difficult for the more or less open internal borders have not led to mass migration. However, the EU’s unique situation is in fact the exception that proves the rule: ‘Free movement among [EU] countries…is possible precisely because the forces generating mass migratory flow among them have been largely exhausted. Where the potential for mass flows still persists – as for example between Turkey and the [EU] countries – free movement remains out of the question’, Brubaker, ‘International Migration’, p.950.

61 The point of this fanciful hypothetical is to emphasise the irrelevance of *institutional* factors to migratory potential; there is ample evidence from real life that physical, geographical, and technological factors are relevant: ‘The effectiveness of external policies is highly dependent on the physical location of states. Australia has perhaps the least serious border control problem; the United States, undeniably the worst’, Freeman, ‘Can Liberal States Control Unwanted Migration?’ p.23.
inhabitants of this hypothetical world to *exercise* their potential to travel between states, it would have no effect on the potential itself.

**VII. The challenge for proponents of statism**

Having clarified the way in which the immigration objection works I now want to suggest how it can be generalised to apply to all versions of statism. Recall that when I applied the objection to the reciprocity-based approach I focused initially on a comparison between two individuals, one of whom (T) was an Italian citizen, the other of whom (S) was not. The aim was to show that there is no relevant difference between T and S in terms of their ‘normative standing’ relative to the particular consideration thought to qualify an individual for inclusion in the scope of justice (i.e. willing compliance with the rules necessary to guarantee the stability of the conditions for wealth creation). The conclusion I came to was that, in a world characterised by global migratory potential, there is indeed no relevant difference in the normative standing of T and S, and, thus, if one should be included in the scope of justice so should the other.

Now, one response to this argument is to say that all it shows is that the reciprocity-based conception is wrong about the relevant normative consideration that triggers strong norms of justice; the implication being that, if and when we identify the *correct* normative consideration, the difference between the normative standing of T and S will reveal itself. Whatever the merits of this response, what is interesting about it is that it accepts the terms of the challenge presented by the immigration objection. The challenge is this: in order to demonstrate the coherence of a particular conception of statism its proponents must conduct a comparative analysis of the situations of individual citizens and non-citizens and show in each case that the normative standing of the citizen and the non-citizen is relevantly different so that the latter can be justifiably excluded from the scope of justice which includes the former. The challenge to statism arises as a direct consequence of the fact of global migratory potential. This can be seen from the fact that the challenge does not arise in the world of single-state planets where travel between planets is not even a remote possibility. In this hypothetical world interaction between citizens and non-citizens is quite clearly not mediated by states in
any way and, therefore, the kinds of concerns that motivated the challenge in the first place – concerns over the normative standing of citizens and non-citizens vis-à-vis the state – do not exist. The force of the challenge presented to conceptions of statism by the immigration objection is therefore restricted to worlds like our own that are characterised by the fact of global migratory potential.

The important question is whether the challenge can be met. In order to answer this question the obvious strategy is to present the challenge in its strongest form. Let us therefore compare a citizen (C) of a modern nation-state (S) with a non-citizen (N) and imagine further that C, far from being a model citizen, is an indolent and politically apathetic individual, while N is a highly productive and politically engaged individual. Let us imagine, further, that N, who resides outside S, nonetheless produces goods and services that are consumed by citizens of S, has friends and acquaintances who are citizens of S, and would happily live and work within S’s territory if the opportunity arose. The challenge for proponents of statism is to demonstrate that only C, and not N, has a claim on a share of the wealth generated by other citizens of S.

What possible argument could justify the conclusion that only C should be included in the scope of justice? It cannot be that only C (the citizen), and not N (the non-citizen), makes a positive contribution to the running of the state; *ex hypothesi*, it is in fact the other way around, with N indirectly adding value to the economy of S and (let us say) contributing to the quality of political debate through cross-border dialogue and engagement via the internet and other media. Nor can it be that only C, and not N, contributes negatively to the running of the state; the whole of section V was dedicated to demonstrating why this is not the case. Nor can it be that only C, and not N, is subject to coercion; not only would N be subject to S’s coercive interference in exactly the same way as C if either of them tried to break the law in S, but N may well face the further interference of not even being allowed entry into S’s territory in order to be in a position to contemplate such action. Nor can it be, as has been recently suggested, that C is more ‘immediately’ subject to the power of the state than N.62 If the notion of

62 This notion of the ‘immediacy’ of state coercion comes from M. Risse, ‘What to say about the
'immediacy' is thought to refer to individuals’ physical vulnerability to the power of the state, then, if we imagine that S is a large state and that N lives close to its border, it is quite conceivable that it would actually be easier for S to find and detain N than C, who, although strictly resident in S, may live thousands of miles from S’s centre of power. If, on the other hand, ‘immediacy’ is thought to refer to the legitimacy of the state’s power, the argument would still fail: either the legitimacy of the state’s power can be justified independently of considerations of justice, in which case any statist attempt to link the restricted scope of justice to the legitimacy of the state’s power would lack an obvious rationale; or the legitimacy of the state’s power cannot be justified independently of considerations of justice, in which case any attempt to ground a conclusion about the scope of justice on claims about the legitimacy of the state’s power would beg the very question at issue, namely, whether the legitimacy of the state’s exercise of power over C but not N can justify restricting the scope of justice so that it includes only the former and not the latter.

In listing these various attempts to explain the difference in the normative standing of citizens and non-citizens I trust it is obvious that my aim is neither to provide a comprehensive enumeration of possible statist conceptions nor to provide conclusive proof of the failure of any particular conception. The former is no doubt an impossible task, and the latter would require much more detailed arguments in each case, akin to the argument I advanced against the reciprocity-based conception above. My aim is thus not to prove that no plausible and coherent version of statism exists, but simply to indicate how unlikely it is that one will be found.

The tendency of statist theorists to underestimate the true scale and difficulty of the challenge they face is, I think, explained by the ‘institutionalist’ bias which underpins their general methodology. For proponents of statism, as I explained in section III, what really does the work in restricting the scope of justice is their interpretation of the role or function of the state. As a result, the empirical analyses that are carried out tend to be focused at a broad, structural level that is insensitive to the

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ways in which institutions actually affect individuals. By rejecting this institutionalist bias, and focusing instead on directly comparing particular individuals, we can better appreciate how those people who are not ‘official’ members of a particular institutional scheme, can nevertheless enjoy normative standing vis-à-vis that institutional scheme that qualifies them for inclusion in the scope of the relevant principles of justice. As we have seen, a productive, politically engaged non-citizen who has contacts and interests in a particular state is certainly no more free, and is usually less free, to pursue his ends within the jurisdiction of that state than a citizen of that state. To exclude the non-citizen from the scope of a scheme of strong distributive justice that includes the citizen is to either arbitrarily ignore the way in which the non-citizen is affected by the state in question, or to invoke some pre-institutional right that explains why the non-citizen can be excluded. Both of these options clearly violate the idea that lends statism its prima facie plausibility, namely, that the scope of strong distributive justice depends only on the normative standing of individuals vis-à-vis the state.

VIII. Conclusion

Throughout this chapter I have avoided invoking any controversial premises that might easily be rejected by proponents of statism. My aim has been to show that statist conceptions of justice typically fail on their own terms, largely because they fail to attend properly to the fact that residents of the globe all share the same physical space and that movement around this space is eminently possible for hundreds of millions, if not billions, of people. I have suggested, moreover, that this failure rests largely on statist theorists’ tendency to interpret the function and purpose of social phenomena at an institutional rather than an individual level. Such an approach is bound to throw up historical patterns of inclusion and exclusion which look as though they may have some normative significance. When we ‘zoom in’, however, and study the circumstances of particular individuals vis-à-vis these institutional structures, the uniformity across groups which seemed to point so strongly to normatively significant conclusions inevitably turns out to be much harder to detect.
The immigration objection challenges proponents of statism to justify their view in these more demanding individualist terms. I have argued that the prospects of meeting such a challenge are not good; at least, not without either arbitrarily ignoring the way in which individual non-citizens are affected by states, or invoking some pre-institutional notion that explains why non-citizens can justifiably be treated differently from citizens. The former option can clearly be ruled out as unviable from the start. But the latter option looks more promising. If some way can be found of explaining what distinguishes citizens from non-citizens that avoids appealing to their normative standing relative to the institutional structures of states, then perhaps we can justify the domestic scope restriction – which says that citizens and only citizens should be included in the scope of strong distributive justice – without invoking the kind of distinctive ‘statist’ argument for that restriction that, I have argued, falls foul of the immigration objection. In the next chapter I consider just such an approach; one which argues that the citizens of a particular state share a special relationship with each other as co-nationals, and that it is this relationship, rather than any institutionally-mediated relationship, which justifies the exclusive scope of strong distributive justice. Of course, this kind of appeal to the shared national identity of citizens will be of little consolation to the statist theorists considered above, for the whole aim of the doctrine of statism is to justify the domestic scope restriction by appeal to the normative peculiarity of the state itself. In light of the damage inflicted on such theories by the immigration objection, however, it is important to see if there is any other way of defending the domestic scope restriction.
(3) Justifying the Domestic Scope Restriction: The Failure of Nationalism

I. Introduction

Proponents of the nationalist justification for the domestic scope restriction agree with statists both that strong norms of distributive justice apply only between the citizens of a particular state and that, if justice is relevant to the interactions of citizens and non-citizens at all, it is only weak norms of distributive justice that apply to these interactions. But although nationalists and statists tend to agree on the truth of the domestic scope restriction, they do not agree for the same reasons.

According to what I shall call the ‘nationalist justification thesis’ (NJT), the domestic scope restriction is justified by the fact that the members of a state do not just share a relationship with one another as citizens, they also share another kind of relationship with one another as co-nationals. This exclusive co-national relationship generates special ‘associative’ duties which apply only between citizens and not non-citizens. The precise content of these co-national associative duties depends on the particular character of the co-national relationship that gives rise to them but, in general, individuals who are not just co-citizens but also co-nationals have a significantly stronger duty to attend to one another’s well-being than they would do if they were ‘merely’ co-citizens: they have a stronger duty to care for one another’s others needs, to provide one another with public goods, and to participate in public life. Whatever their precise content, the claim made by proponents of the NJT is that citizens’ co-national associative duties form part of the content of justice, and this

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63 The most prominent proponent of the NJT is David Miller. See, for example, Miller, On Nationality, chap.3; Miller, National Responsibility and Global Justice, chap.2; Miller, ‘Justice and Boundaries’. Another well-known proponent is Y. Tamir, Liberal Nationalism, (Princeton: Princeton University Press, 1993). There are several other writers (many of whom I mention below) who, although not explicitly committed to the NJT, nevertheless implicitly endorse its main tenets. One such writer whose work I do not directly discuss, but who should be mentioned here, is M. Walzer, Spheres of Justice, (New York: Basic Books, Inc., 1983).
64 For this last claim in particular, see, A. Mason, ‘Special Obligations to Compatriots’, Ethics, 107 (3) (1997), 427-447.
explains why the norms of justice that apply between citizens are stronger than those that apply between non-citizens.

My argument in this chapter, like the previous one, is essentially negative. My aim is to demonstrate that the nationalist justification thesis is false. Now one obvious way of going about this would be to try to show that the co-national relationship is incapable of grounding any associative duties between its members. But I shall not pursue this strategy. Yet another argument against the very possibility of co-national associative duties will no doubt be welcomed by those who already agree with its conclusion, but it is unlikely to persuade those who are convinced that co-national associative duties can and do exist.

So I shall not try to deny that people can have associative duties to their co-nationals. Instead, I shall argue that even if the relationship that holds between co-nationals is capable of grounding associative duties, the further claim that these duties are what explain and justify the restricted scope of strong norms of justice is false. One thing that supporters of the domestic scope restriction all agree on, (and this is true whether they support it on nationalist grounds, or statist grounds, or some mixture of the two), is that if strong norms of justice apply domestically, then they apply universally within that restricted domain (i.e. the state). That is, they believe that the strong norms of justice that apply to citizens apply without exception: if you are a citizen, then you are necessarily subject to the strong norms of justice that apply to all other citizens. The problem for proponents of the NJT, as I argue below, is that the associative duties that are purportedly owed by co-nationals, and that supposedly justify the applicability of strong norms of justice, do not have guaranteed universal applicability within the domain of the state. Even if some citizens owe associative duties to each other in virtue of their relationship as co-nationals, there is no guarantee that all citizens owe these duties. But if co-national associative duties do not apply to all citizens then they cannot be appealed to in order to justify the domestic scope restriction, since this restriction assumes that strong norms of justice apply without exception across the restricted domain.
The falsity of the nationalist justification thesis does not entail that there are no strong norms of distributive justice, nor does it entail that there are no strong norms of distributive justice with restricted scope. Perhaps the existence of strong norms of distributive justice can be justified in some other way, and perhaps the restricted scope of these norms can also be justified somehow. My claim in this chapter is the purely negative one that these justifications cannot plausibly appeal to the associative duties that some people may owe in virtue of their nationality.

The main part of my argument involves setting out what I think is the most plausible account of the way in which certain types of relationships can ground associative duties between their members. This is the task of sections II-V. The account I defend claims that, for an individual to have associative duties in virtue of her membership of a particular relationship, two things must be true. First, the particular relationship in question must be a token of a potentially duty-grounding relationship-type. A potentially duty-grounding relationship-type is one that possesses impersonal intrinsic value (i.e. value that cannot be reduced to the well-being of those participating in the relationship). Examples include the relationship between friends, family members, and, more controversially, co-nationals. Only certain relationship-types are impersonally valuable, and it is this impersonal value that explains why these relationship-types are capable of grounding associative duties whereas other relationship-types are not.

Because impersonally valuable relationships are only potentially duty-grounding, there is a second fact we need to know before we can determine whether an individual participant in a particular token of one of these potentially duty-grounding relationships is actually the bearer of a set of associative duties grounded in that relationship. What we need to know is whether a particular individual’s participation in a relationship token contributes intrinsically to her well-being. To say that participation in a relationship contributes ‘intrinsically’ to a person’s well-being is to say that such participation is a constituent element in that person’s well-being, and not merely a means, an instrument, for achieving well-being. Of course, participation in impersonally
valuable relationships often contributes to our well-being in both an intrinsic and an instrumental sense, and so it can often be hard to distinguish the two. But our friends and family members would presumably be rather dismayed to find out that the only reason we continue to participate in a relationship with them is because of the instrumental benefits we gain as a result (e.g. help with baby-sitting or moving house). Thus, it is only when participation in an impersonally valuable relationship makes an intrinsic, constitutive contribution to a person’s well-being that a person has the right kind of reason to continue her participation in the relationship and see herself as the bearer of associative duties towards the other participants in that relationship. In this situation I shall say that the associative duties grounded in a particular relationship have ‘normative force’ for the individual in question.

Since there are two distinct stages in determining the normative force that any putative set of associative duties has for a particular individual, I call this the ‘two-stage analysis’ of associative duties. After explaining it in more detail in section V, I move on in section VI to apply the two-stage analysis to the particular case of the co-national relationship. The conditional nature of my argument means that there is no need to carry out the first stage of the analysis by demonstrating that the co-national relationship is an impersonally valuable (and hence potentially duty-grounding) relationship-type. What I am concerned to show instead is that even if the co-national relationship is a potentially duty-grounding relationship-type, the associative duties it generates do not necessarily apply to every putative member of that relationship. In order to successfully show this it is of course necessary to carry out the second stage of the analysis. Determining whether a person’s participation in a co-national relationship contributes intrinsically to her well-being is no easy task, especially considering all the instrumental benefits such participation brings. But I believe there are grounds for scepticism regarding the claim that participation in certain kinds of co-national relationship always contributes intrinsically to the well-being of the participant. If I am right, then we must conclude that there is no way of guaranteeing that the associative duties generated by the co-national relationship have normative force for every member.
of that relationship. And if the universal applicability of co-national associative duties cannot be guaranteed, then the ability of these duties to explain the restricted scope of strong norms of distributive justice – which do have universal applicability within the relevant domain – would seem to be in doubt.

II. Three conditions on associative duty-grounding relationships

Many philosophers agree with the commonly held belief that people owe associative duties to others with whom they stand in certain significant relationships. But although there is fairly widespread agreement among philosophers that such duties exist, there is a great deal of disagreement over their moral justification. Two questions in particular have been the focus of debate: How are relationships able to generate these duties? And which types of relationship are able to generate these duties?

One way of addressing these questions is to try to identify a set of conditions that any relationship must satisfy if it is to qualify as an associative duty-grounding relationship. If such a set of conditions can be identified then it should help explain both how certain types of relationship are capable of generating associative duties, and which types of relationship have this capability. In this section I consider three potential conditions: the ‘duty condition’, the ‘justice condition’, and the ‘value condition’. Some writers explicitly endorse all three conditions. In the work of many other writers, however, only some of these conditions are endorsed, and even then the endorsement is only implicit. By setting out the conditions clearly, and assessing the role played by each in the justification of associative duties, we can hopefully shed some light on an area of moral and political philosophy that still suffers from a lack of clarity.

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65 ‘Most of us believe that there are certain people to whom we have special obligations. These are the people to whom we stand in certain relations...We believe that we ought to try to save these people from certain harm, and ought to try to give them certain kinds of benefit. Common-Sense Morality largely consists in such obligations.’ D. Parfit, Reasons and Persons, (Oxford: Oxford University Press, 1984), p.95. As Samuel Scheffler has explained, the term ‘associative duties’ is used to distinguish the special duties a person owes people with whom he stands in some kind of significant relationship from the special duties he owes people for other reasons; for example, because he formed a contract with them, or because they provided him with certain benefits, or because he wronged them in some way. Scheffler, Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought, pp.49-50.

Turning first, then, to the ‘duty condition’, the idea here is that for a relationship to be able to ground associative duties, it must be the case that the relationship itself is actually constituted, wholly or partially, by those duties. Consider the difference, for instance, between the norms of behaviour that identify a group of music fans who share a love of the blues\textsuperscript{67} and the norms of behaviour that identify a group of friends who share a history of mutual concern for one another. In some sense it is true that members of the group of blues fans ‘must’ behave in certain ways in order to be counted as members of the group. But this is not a moral ‘must’. We do not in general think that any particular blues fan has a duty to the other members to continue attending concerts of the blues, especially when it is costly for him to do so. The situation is very different for the group of friends. In order for the members of this group to be counted as genuine friends they ‘must’ be prepared to behave in certain ways or else accept justified moral criticism. To be a friend is not simply to act according to a well defined pattern of interaction, but to recognise a duty to pay special attention to the interests of those whom one counts as friends.

The precise content of the duties that constitute a particular relationship obviously depends on the type of relationship it is. The duties that a university professor owes to her colleagues are different to the duties she owes to her brother, and both of these are very different to the duties she owes to those with whom she shares a national identity. However, the fact that these different kinds of relationship are usually understood to give rise to different kinds of duties is not enough on its own to justify the normative force of these duties. In order to know whether a person is vulnerable to moral criticism for failing to fulfil her duties to her colleagues, sibling, or co-nationals, we need to know whether the relationships which give rise to these duties satisfy further conditions.

It has been suggested that one of these further conditions is (what I am calling) the ‘justice condition’. The justice condition states that the duties typically thought to constitute a particular type of relationship lack normative force for those participating

\textsuperscript{67} I borrow this example from Miller, \textit{National Responsibility and Global Justice}, 2007, p.40).
in the relationship if the relationship itself is inherently premised on injustice. Thus, even though the members of various types of racist or criminal organisations might well experience a very real sense of solidarity as a result of their shared membership of the group, and although they often have very demanding expectations of how members in good standing of that group should behave, we are not committed to the conclusion that these individuals, qua participants in these unjust practices, have a moral duty to behave in these ways. There may be, as Miller points out, honour among thieves, but the norms that regulate the behaviour of Mafiosi fail to qualify as genuine associative duties in virtue of the fact that the very existence of the relationship which generates them is inherently premised on injustice.

The justice condition, as we can see from the Mafia example just noted, has some obvious prima facie plausibility. But we must take care here, for there is reason to think that the justice condition, as it stands, might prove too much. The worry is that although on some fairly minimal conceptions of what justice demands the justice condition will be compatible with a wide range of associative duty-grounding relationships, on other more demanding conceptions of what justice demands the justice condition might rule out from the start the duty-grounding potential of most if not all types of relationships. If, for instance, justice requires the realisation of a substantive principle of global equality, then any relationship whose putative demands conflict with this requirement will be automatically disqualified from the class of duty-grounding relationships. Since it is part of the very nature of associative duties that some people receive benefits that others do not, it is unlikely that many relationships will satisfy the justice condition when it is interpreted in this strongly egalitarian sense.

Now one possible response to this worry is to stick to one’s guns and insist that if the putative demands that arise from most, or perhaps all, of our relationships conflict with the demands of global egalitarian justice, then that is just too bad for those relationships – justice takes priority. The problem with this uncompromising response

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is that it involves taking a very hard line on a deeply controversial issue when there is, at
least at this stage, no need to do so. Recall that the original motivation for introducing
the justice condition was to rule out obviously unjust relationships, such as racist and
criminal gangs, from the class of duty-grounding relationships. The aim was not to
show that these relationships give rise to duties which are then overridden by justice but
to show that the duty-grounding potential of these relationships is undermined from the
start due to their inherent injustice. Now, however, we face the possibility that the duty-
grounding potential of all relationships, including ones that are not ‘obviously’ unjust,
might be undermined. This is clearly a much more controversial position to hold. We
are a long way from understanding the way in which associative duties interact with our
wider duties of justice, and it seems unnecessarily premature to decide this matter at
this stage of the argument.  

The solution is to modify the justice condition so that it only implies the
exclusion of those relationships that are ‘obviously unjust’. I shall not attempt to work
out the precise content of this ‘minimal justice condition’, but I assume that such a task
is possible in principle. There will inevitably be hard cases, but for the most part it
should be clear which relationships satisfy the minimal justice condition and which
don’t. It is important to note that the minimal justice condition would not rule out in
principle the possibility of our associative duties to friends and family members being
 overridden by a very demanding ‘full’ conception of justice. The point is that now we can
at least recognise that there is a genuine conflict here – the problem with the original
justice condition was that it ruled out this possibility by definition.

I turn finally to the value condition. The value condition plays a particularly
important role in the justification of associative duties, because it explains why the
participants in certain types of relationships have a reason to see themselves as the

70 For evidence of how deep the disagreement is among philosophers over the relationship between
our duties of justice and our associative duties, see the work by, A. Abizadeh and P. Gilabert, ‘Is there
a genuine tension between cosmopolitan egalitarianism and special responsibilities?’ Philosophical
Political Philosophy, 10 (3) (2002), 250-266; S. Lazar, ‘Debate: Do Associative Duties Really Not
and Global Justice’, The Journal of Moral Philosophy, 7 (2010), 54-73; Scheffler, Boundaries and
Allegiances, esp. chaps.3, 4, 5, and 6.
bearers of duties towards their fellow participants in the first place. Very briefly, the
idea is this: to say that a relationship is valuable is to say that people have a reason to
participate in it. And if people have a reason to participate in a relationship that is
constituted in part by a set of associative duties, then people have a reason to carry out
these duties. Of course, this simple explanation leaves unanswered a number of
important questions, including how exactly we are to understand the nature of the value
possessed by relationships, and how we are to understand the precise relation between
the value of a relationship and the moral significance of the duties that constitute it.
The literature reveals a wide range of different answers to these questions, and we need
to make some sense of these answers before we can explain how the normative force of
our associative duties is justified.\footnote{For discussion of the issues raised by the value condition see, e.g., Miller, \textit{National Responsibility and Global Justice}, pp.34-5; Raz, \textit{Ethics in the Public Domain}, pp.40-3; Scheffler, \textit{Boundaries and Allegiances}, esp. chaps.3 and 6; Abizadeh and Gilabert, 'Is there a genuine tension?'; Mason, 'Special Obligations to Compatriots'; P. T. Lenard, and M. R. Moore, 'Ineliminable Tension: A Reply to Abizadeh and Gilabert's Is There a Genuine Tension Between Cosmopolitan Egalitarianism and Special Responsibilities?', \textit{Philosophical Studies}, 148 (2009), 399-405.}

\section*{III. Interpreting the value condition: the instrumental value account}

One way of justifying the normative force of the duties that arise from our
relationships is to appeal to the \textit{instrumental} value of these relationships. The claim is
that the duties grounded in certain types of relationship should be seen as having
normative force because of the key role they play as a means to some further end (i.e.
one that lies beyond the specific goal of continuing any particular relationship) that is
valuable for its own sake.\footnote{According to standard usage, the instrumental view does not, strictly speaking, justify the existence of 'associative' duties proper, since the 'associative' label tends to be reserved for duties that arise as a direct result of the \textit{intrinsic} value of relationships. However, it seems to me that both the instrumental and intrinsic arguments for the existence of special, relationship-based duties share the same basic structure (i.e. they both agree on the three conditions on duty-grounding relationships and only disagree about the interpretation of the value condition). If this is right, then it seems to make sense to characterise the disagreement they have as being about the correct justification of associative duties, and not (as is currently the case) as being about whether the duties we owe to those with whom we stand in some kind of significant relationship are associative duties or some other kind of duties.} A common version of this view starts with the
uncontroversial claim that it is valuable for us to discharge our general duties (i.e. duties
we owe to everyone), and then goes on to claim that our relationships with particular
people (and the associative duties they entail) are valuable insofar as they contribute to this end. Thus, it has been argued that the relationships between parents and their children are instrumentally valuable because assigning responsibility to particular adults to look after particular children makes it much more likely that we will successfully discharge the general duty we all have to ensure that all children are looked after. Similarly, it has been claimed that relationships between members of the same nation are instrumentally valuable because assigning responsibility to particular groups to satisfy their members’ needs makes it much more likely that we will successfully discharge our general duty to ensure that everyone’s needs are met.73

These kinds of instrumental justifications of associative duties have been subjected to numerous powerful criticisms, but the central objection usually takes the same general form, and comes in two parts.74 The first part highlights the vulnerability of associative duties’ normative force, on the instrumental account, to empirical circumstances. Take, for example, the argument that the allocation of associative duties is a particularly effective way of ensuring that our general duties are discharged. In a world where the resource holdings of individuals are more or less equal it may be true that the most effective way of discharging our general duty to help the needy is to assign people special duties to look after their compatriots. But in a world as unequal as ours, if our aim is to help needy people in general, then, as Miller says, ‘to put Swedes, with a per capita annual income of $24,000, in charge of their own needy, and Somalis, with a per capita annual income of $120, in charge of their needy would seem grossly irrational’.75 This example demonstrates the fact that if the normative force of associative duties is justified by appeal to the wider goal or value such duties promote, then, if it turns out that there is a better way of promoting the goal or value in question, the justification will fail.

75 Miller, On Nationality, p.63.
The second part of the objection to the instrumental justification of associative duties says quite simply that this contingent account of the normative force of our associative duties does not in fact reflect the way we think about their normative force. This point is best brought out by an example famously discussed by Bernard Williams.76 Imagine a person faced with a situation in which he can save either a stranger’s life or his wife’s life, but not both. Most people would say that there is no need for the man to decide who he should save through some fair decision procedure (say, by flipping a coin). Instead, they would say that he is obviously justified in saving his wife’s life, and indeed that he is probably required to. When asked why the man is justified in eschewing the coin toss and favouring his wife over the stranger, most people will answer, ‘because she is his wife’ (while perhaps adding that this is what husbands should do for their wives).

For the proponent of the non-instrumental justification of associative duties, however, this answer simply raises a further question, namely, why, in these sorts of situations, are people justified in saving their wives instead of strangers? And it is the fact that the proponent of the instrumental justification believes this further question needs asking that exposes the flaw in this account of associative duties. Such a belief reflects a failure to understand that to value my relationship with a particular person ‘just is, in part, to see that person as a source of special claims in virtue of the relationship between us’.77 To look outside the value of the relationship one has with one’s friend or sibling or partner in order to explain why one owes associative duties to that person is, in Williams’ famous phrase, to have ‘one thought too many’.78 If it turns out that the relationship the potential rescuer has with his wife (or, to recall the earlier example, the relationship a Swedish person has with his co-national) is an instance of a widespread practice that generally contributes to the promotion of some independently valuable goal, then this is at most a welcome bonus – it is not the reason why the rescuer is justified in favouring his wife over the stranger, or the Swedish man is

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77 Scheffler, Boundaries and Allegiances, p.100.
justified in providing benefits to his co-nationals rather than to the more needy citizens of Somalia.79

**IV. Interpreting the value condition: the intrinsic value account**

The majority of writers on the subject agree that the normative force of our associative duties cannot and should not be seen as dependent on the value of the independent end(s) that the fulfilment of such duties promotes. Instead, they argue that the normative force of our associative duties must be grounding in the intrinsic (i.e. non-instrumental) value of the relationships that give rise to them. There are, however, a number of different ways of interpreting the idea that certain types of relationship are intrinsically valuable, and this in turn generates a number of different answers to the question how the intrinsic value of a relationship explains the normative force of the associative duties grounded in a particular relationship.

As a way in to these issues, I begin by introducing a distinction between two kinds of intrinsic value: personal and impersonal. Something has ‘personal’ intrinsic value insofar as it contributes to the well-being of persons. Thus, if a person derives well-being from his participation in a relationship, then this relationship can be described as possessing personal intrinsic value. In order to avoid slipping back into an instrumental account of the value of relationships it is important to distinguish between participation in a relationship as a means to well-being and participation in a relationship as a constituent of well-being. The latter idea is nicely expressed by Arash Abizadeh and Pablo Gilabert:

> What explains the value of relationships such as those of friendship or family is that they are arguably a necessary constituent of human well-being, and perhaps even a necessary constituent of a life with moral agency. Their value is “derivative” in the sense that the whole institution of friendship or family is justified by reference to the value of human well-being of which it is arguably a part. Having such relationships is valuable for its own sake, noninstrumentally (since it is not the cause of well-being but

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a part of it); but its value is nonetheless explained by and so conditional on the ultimate value of human wellbeing.\textsuperscript{80}

The advantage of the ‘personal view’ of the intrinsic value of relationships is that it is much more faithful than the instrumental account to the way in which we actually value our relationships. It enables us to recognise the value that is directly instantiated by these relationships, something we were unable to do when thinking about the value of relationships in purely instrumental terms. As Michael Hardimon puts it: ‘Our roles as family members and citizens are the source of some of the deepest and most important bonds we have…A life devoid of such attachments would be flatter, less full, less human than a life with such attachments’.\textsuperscript{81} Using the personal view we can now explain why people are justified in saving their wives rather than strangers by appealing directly to the intrinsic value of marriage, and not to the value of the ends which marriage generally serves as a means. It is for this reason that the personal view of the intrinsic value of associative duty-grounding relationships is to be preferred to the purely instrumental view.\textsuperscript{82}

However, although the personal view offers a better account of the way in which people tend to value their relationships, it is still not clear that it offers a plausible explanation of the distinction between those relationships that are able to ground associative duties and those that are not. To see why this is, consider the following hypothetical example put forward by Diane Jeske. The ‘West Side Reading Group’, says Jeske,

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\textsuperscript{80} Abizadeh and Gilabert, 'Is there a genuine tension?' p.356.
\textsuperscript{81} Hardimon, 'Role Obligations', p.354.
\textsuperscript{82} Not everyone agrees that the necessary contribution that our participation in certain relationships makes to our well-being entails that such participation has intrinsic value. Consider this quote from McMahan: ‘I have argued that many special relations have a profound instrumental significance. Nothing could be more obvious than that our relations with one another, and particularly our close personal relationship, are vital and indispensable elements of our happiness and well-being’, McMahan, 'The Limits of National Partiality', p.118 (emphasis added). It seems that whether or not one thinks that the well-being that people derive from their participation in relationships is intrinsically or instrumentally valuable depends on whether one thinks that well-being is a distinct value in itself or merely the collective label given to all those goods that have personal intrinsic value. Abizadeh and Gilabert appear to support the second option whereas McMahan appears to favour the first. Nothing important hangs on this disagreement as long as those who take McMahan’s view agree with him that (certain of) our relations with one another are ‘vital and indispensable elements’ of well-being.
will meet once a month at the local coffee house to discuss edifying books, articles, etc. Members of the group are obligated to attend a certain number of meetings a year, participate in discussions, and recommend books or articles to other members of the group. Everyone who lives in a certain sector of the west side of town is a member of the group. Given that I live in that part of the west side of town, I am thereby a member of the group. Do I have obligations to attend meetings, etc.? The group appears to be just and to have good ends. Given that I am well-read, it would be good if I were to contribute to the group, and my participating would certainly not be unjust or immoral. But why suppose that I have special obligations to other members of the reading group simply because those others have decided to describe me in a certain way, even if their group is a good group with just and worthy goals in which I could participate without violating any requirements of justice or morality? 

Unlike the duties that arise as a result of my relationship with my friends, family members, or even co-nationals, we do not think that the duties which arise as a result of my automatic membership of the West Side Reading Group have any normative force for me in particular. This is so even though, ex hypothesi, the group not only satisfies the duty condition and the minimal justice condition but would also contribute to my well-being were I to participate. According to the personal view, the difference in the duty-grounding potential of these different types of relationship is to be explained by the fact that the former types of relationship are examples of intrinsically valuable practices (i.e. ones that are necessarily constitutive of person’s well-being), whereas the latter type of relationship is only an instrumentally valuable practice (i.e. one that is a contingent means to my well-being). Is this explanation plausible?

The problem for the proponent of the personal view is that for all the talk about the ‘necessary’ constitutive role played by participation in certain types of relationship in promoting my well-being, there does not seem to be any substantive

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83 D. Jeske, ‘Special Obligations’, http://plato.stanford.edu/entries/special-obligations/. Richard Dagger provides a similar example when he discusses his sense of belonging to the group of ‘Janeites’ (devoted readers of Jane Austen’s novels). ‘I feel a kinship with my fellow Janeites; I have rubbed elbows with some of them at the Austen house in Chawton; I identify with them. But I do not see how this identification imposes an obligation, associational or otherwise, upon me’. R. Dagger, ‘Membership, Fair Play, and Political Obligation’, Political Studies, 48 (2000), 104-117.
difference, at least insofar as the justification of my moral duties is concerned, between the well-being I derive directly from my participation in a friendship and the well-being I derive indirectly from my participation in the Reading Group. Imagine two different five-person worlds. The only relationship that holds between the five inhabitants of the first world is that they are friends. The only relationship that holds between the five inhabitants of the second world is that they are members of the West Side Reading Group. If both the friendship and the Reading Group are constituted by certain duties (different in each case of course) that the participants in each relationship owe to one another, and if participation makes an equal contribution to the well-being of the participants in both cases, what difference does the fact that this contribution is ‘intrinsic’ in the case of the friendship and ‘instrumental’ in the case of the Reading Group make to the normative force of the associative duties in each case? Why am I open to moral criticism if I fail to help my friends but not if I fail to turn up for the meeting of the Reading Group? The formal distinction between the constitutive intrinsic value of one and the instrumental value of the other does not seem capable of explaining this difference.

If the distinction between relationships that can ground associative duties with real normative force and those that can’t is to stand up to critical scrutiny, it seems that there must be a more substantive difference between the value created by these two types of relationship. The alternative approach I now want to consider rests on the claim that the intrinsic value possessed by certain types of relationship is not only personal but also impersonal in nature. To the extent that something possesses impersonal intrinsic value, its value ‘is not constituted by the value of the experiences of those who actually enjoy it. Such enjoyment is also valuable, but the value of the object is something distinct’. According to the impersonal view, the important distinction between the type of relationship that holds between friends, family members, and the members of certain types of significant communities, on the one hand, and the type of relationship that holds between members of reading groups and music fan clubs, on the

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other, is that the former types of relationship possess an intrinsic value that cannot be reduced to the well-being of its members.

While the personal value that participation in a relationship has for particular people gives those people a self-interested reason to carry out the associative duties that constitute the relationship, it is the distinctive impersonal value of the relationship itself that explains why these duties have real normative force (i.e. that they are morally justified). We recognise that there is a qualitative moral difference between the relationships that hold between friends, family, and (more controversially), co-nationals, and the relationships that hold between the members of reading groups and fan clubs. And one plausible way of explaining this qualitative moral difference is in terms of the impersonal intrinsic value that only the former types of relationship possess. For those who are \textit{not} members of such a relationship, the appropriate response to its impersonal value is, first, to respect the relationship itself (by not interfering with it and perhaps supporting it when it is possible and not too costly to do so) and, second, to respect the fact that the duties grounded in the relationship have real normative force for (at least some of) those who are members. For those who \textit{are} members of such a relationship, the appropriate response to its impersonal value is to carry out the duties that typically apply to members of that relationship (subject to one important condition which I discuss below). When an individual fails to discharge his associative duties he may be liable to criticism on the grounds that he is acting contrary to his own well-being; but our distinctively \textit{moral} criticism of him results from his failure to respond appropriately to the impersonal value of the relationship of which he is a member.

As well as providing a more plausible justification for the normative force of our associative duties, I believe the impersonal intrinsic view is a further improvement on the personal intrinsic view as an account of how people tend to think about valuable relationships. While the personal view is an improvement on the instrumental view, the objection is that it still mischaracterises the unique value of certain types of relationship by reducing it entirely to the well-being of its members. The impersonal view avoids this objection because it recognises that although friendship or co-nationality often add
value to the lives of those participating in these relationships, the existence of such relationships is also valuable in itself (i.e. in addition to the well-being the participants derive from their participation). In this sense these relationships are like works of art – they possess an intrinsic value which cannot be explained entirely in terms of the personal benefits derived by the people who interact with them.\(^{85}\)

The combined explanatory power and intuitive plausibility of the impersonal view is not enough, however, to save it from a powerful objection. The impersonal view works by driving a wedge between the impersonal intrinsic value that inheres in certain types of relationships, and the personal intrinsic value which inheres in the well-being of the individuals who participate in these relationships. The idea is that the normative force that the associative duties grounded in certain types of relationship have for the individual members of those types of relationship is to be explained by the reason these individuals have to respect the impersonal value of the relationship through their participation. The problem with this account is that it seems to entail that the members of certain types of relationship have a reason to continue participating in the relationship even if they do not derive any well-being from such participation. Friendships, marriages, and familial relations can make people miserable. And one’s membership of these groups, as well as more impersonal groups such as nations, can occasionally come into conflict with one’s ‘profound ethical convictions’.\(^{86}\) In these circumstances there might well come a point at which a person no longer has a reason deriving from his own well-being to continue participating in a particular relationship. Yet according to the impersonal view, when a member of a relationship ceases to derive any well-being from his or her participation in a certain type of impersonally valuable relationship, the relationship itself does not cease to have value. And if the relationship

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\(^{85}\) For this claim about works of art, see, Nagel, *Equality and Partiality*, pp.132-3. This analogy between valuable relationships and valuable works of art might make it seem as if I am claiming that the existence of particular relationships is always impersonally valuable regardless of whether or not any of the participants in the relationship derive well-being from their participation. As I explain below, this is not my position. The impersonal value of particular relationships is conditional on there being at least some participants in these relationships who derive well-being from their participation. A ‘friendship’ in which both ‘friends’ are coerced into continuing the relationship is not impersonally valuable simply in virtue of the fact that it looks like a friendship from the outside.

\(^{86}\) R. Dworkin, ‘Liberal Community’, *California Law Review*, 77 (3) (1989), 479-504, p.486. I say more about this important idea in section VI.
continues to have value, then the participants continue to have at least a prima facie reason to participate and to carry out the duties constitutive of that relationship. The implication is that people always have a prima facie reason to carry out the duties that constitute certain types of relationship, even when they have no reason to carry on participating – and perhaps a positive reason not to participate – deriving from the effect that continued participation in the relationship has or will have on their own well-being. This is a mistake. Joyless friendships and loveless marriages do not continue to provide a reason (even a prima facie reason) for the participants in these relationships to continue to carry out duties to one another, even if friendship and marriage considered in the abstract are impersonally valuable types of relationship.

For all the benefits of the shift in emphasis from the personal to the impersonal value of relationships, the worry is that the shift to the impersonal view has gone too far. By insisting that certain types of relationships generate reasons for the participants to carry out the duties that constitute the relationship even when the carrying out of such duties adds nothing, and perhaps subtracts, from the well-being of each and every participant, the impersonal view is unable to explain why the duties normally entailed by, for example, marriage or friendship, do not in fact have any normative force for the participants when the marriages are loveless and the friendships are joyless.

V. Types and tokens: the ‘two-stage’ analysis

I want now to try to remedy the flaws in the impersonal view. I begin by making a distinction between relationship-types, and particular tokens of these relationship-types. Up to this point I have been talking primarily in terms of abstract relationship-types: ‘friendship’, ‘siblinghood’, ‘co-nationality’, etc. But of course the associative duties that people actually owe to others are not owed in virtue of the abstract concepts of friendship, or siblinghood, or co-nationality; people owe associative duties to their friends, their siblings, their co-nationals. Each of these actually existing relationships is a token of a particular relationship-type.

The problem with the personal view was that it focused too much on the well-being that specific individuals derive from their participation in particular tokens of
certain relationship-types (i.e. those which are necessarily constitutive of well-being). In doing so it ignored the fact that what is distinctive about duty-grounding relationships is that particular tokens of these relationships have value simply in virtue of being a token of an impersonally valuable relationship-type. The problem with the impersonal view, on the other hand, was that it focused entirely on the impersonal intrinsic value of certain relationship-types, thus ignoring the personal reasons that specific individuals might have to end their participation in particular tokens of these relationship-types.

The solution to these problems is to integrate the two views by analysing the value of a potentially duty-grounding relationship in two separate stages: first, in terms of the intrinsic value of the type of relationship it represents, and second, in terms of the well-being that is derived by the individuals participating in any particular token of that type.

When carrying out the first stage of this two-stage analysis what will become clear is that there are certain relationship-types that possess a value that cannot be reduced to the well-being of the participants in any particular token of that type (say, the relationship between friends, family members, and co-nationals), while there are other relationship-types that possess a value that can be reduced to the well-being of the participants in any particular token of that type (e.g. formal reading groups and music fan clubs). Having identified these two distinct categories of relationship-types we are then able to point to the substantive difference which explains why certain types of relationship are capable of grounding associative duties (those in the former group) while others are not (those in the latter group).

Having drawn up our list of potentially duty-grounding relationship-types in the first stage of the analysis, we then turn in the second stage to analyse the well-being that specific individuals who are participating in particular tokens of these relationship-types derive from their participation. Working out which individuals derive well-being from their participation in the relationship will tell us who has a reason to continue participating in the relationship and thus who has a reason to carry out the duties that constitute the relationship.
In order to get clearer about how this second stage of the analysis typically works, and to illustrate the implications it will have for the normative force of any putative associative duties that might be thought to arise as a result, consider four people A, B, C, D, three of whom (A, B, and C) are co-members of a particular token of a relationship-type that has already been selected as potentially duty-grounding during the first stage of the analysis. (Call this relationship token ‘R’ – it does not matter yet exactly which relationship-type R is a token of). Let us say initially that participation in R contributes positively to the well-being of each of A, B, and C. In this situation we say that each of A, B, and C owes to the others the associative duties that are typically attached to the particular roles they play in the relationship-type that R represents. Since D is not a member of R his well-being is of course not affected either way, and he therefore does not owe any associative duties to A, B, or C. But D nevertheless has reason to respect R and the obligations that A, B, and C have to one another. Indeed, D has two reasons to respect R: the first deriving from the contribution that participation in R makes to the well-being of A, B, and C; and the second deriving from the impersonal intrinsic value of the relationship itself. (Notice that this second reason for non-members to respect a particular token of a relationship-type explains why we have more reason to respect the relationship between friends than we have to respect the relationship between fellow members of a reading group).

Now imagine that there is a change in circumstances so that C’s continued participation in R no longer contributes positively to his well-being (we do not need to worry yet about the reasons for this change in circumstances). Two questions, in particular, are raised by this change in circumstances. First, does the change in circumstances have any effect on the impersonal intrinsic value, and hence the duty-grounding potential, of R? Second, does C still owe any associative duties to A and B after the change in circumstances?

The answer to the first question is ‘no’. The change of circumstances has no affect on the impersonal intrinsic value of R. As long as R is the type of relationship that can logically hold between two people, then the disappearance of the personal
reason that C previously had to participate in R does not destroy the relationship, since A and B each still have their personal reasons to participate in the relationship. Since R continues to exist after the change in circumstances, it continues to possess impersonal intrinsic value. Things would be different, of course, if A and B then subsequently lost their personal reasons to participate in R. In this case there would be no individual left with a personal reason to participate in the relationship, and the impersonal value of R would cease to exist along with the relationship itself.87

The answer to the second question is also ‘no’: C no longer has any associative duties to A and B after the change in circumstances. Now, having just denied that the change in circumstances affects the intrinsic value, and hence the duty-grounding potential, of R, it may seem strange to claim that C no longer owes any associative duties to A and B. However, this is where the distinction between type and token becomes particularly important. The duty-grounding potential of R derives from R’s status as a token of a potentially duty-grounding type. This is an a priori truth, and is thus not affected by the changing membership of R. It is a different matter, however, when it comes to determining which particular individuals have associative duties as a result of their membership of R. Here the relevant question to ask is which members of R have a reason deriving from its effect on their own well-being to participate in R? We know that although A and B continue to have such a reason, C no longer does, and D never did. Thus, A and B continue to have reason to carry out the duties constitutive of R, C no longer has such a reason, and D never had such a reason.

It might be objected that the justification of associative duties I have just outlined is no different to the justification that follows from the personal view since, according to my view, whether or not a person actually owes any associative duties in virtue of his membership in a particular relationship seems to depend entirely on

87 What if B and C no longer have a personal reason to participate in the relationship but A continues to have one? I think we have to treat this situation in the same way as we treat the situation in which all three of A, B, and C, no longer have a reason to participate. The fact that the former situation is much worse for A than the latter is certainly unfortunate, and perhaps gives B and C, as former participants, a reason to make the loss of the relationship easier for A, but A’s reason to continue participating does not, in itself, generate reasons for B and C to keep the relationship going (see the following footnote for more on the duties that ex-members of relationships might have to their former co-members).
whether or not he derives well-being from his participation in that relationship. This objection is mistaken. It is true, on my account, that whether or not a person actually owes the duties that constitute a particular relationship depends on whether he has a reason grounded in his own well-being to participate in the relationship. But this is only one of two necessary conditions that must be in place before a person can be said to owe the associative duties grounded by a particular relationship. The other condition is that the relationship itself is a token of an intrinsically valuable relationship-type. This latter condition is by far the most important in justifying the normative force of the duties grounded in a particular relationship. The former condition merely acts as a kind of ‘duty trigger’ which activates for a particular individual the duties that constitute a particular relationship.

Returning to the example: when circumstances change, and C no longer has a reason based on its intrinsic contribution to his well-being to continue participating in R, he effectively ends up in the same position relative to R as D has been all along. The impersonally valuable relationship that previously existed between A, B, and C generated a reason for D to respect that relationship, but no reason for D to see himself as the bearer of associative duties to A, B, and C. Now C finds himself in the same situation – he has a reason deriving from the impersonal value of the relationship that holds between A and B to respect that relationship, but he has no longer has any reason to see himself as the bearer of associative duties to A and B.88

88 It is important to note that although C may no longer owe any associative duties to A and B that are directly grounded in R, C might still owe some special duties to A and B that D does not. When one person falls out of love or friendship with another person, it is more than likely that the former still has special duties to the latter to treat her with kindness and respect, particularly with regards to the way he ends the relationship. But these duties are not correctly characterised as associative duties. It would be strange, after all, to say that we have duties of friendship to people who we have just rejected as friends. Rather, a person’s special duties to treat an ex-friend or ex-lover with particular kindness and respect is derived from the general duty of respect that we owe, in principle, to everyone. The reason why this general duty generates special duties for former-friends or former-lovers is that, in their role as former-friends or former-lovers, they have a unique capacity to harm or benefit the other party (or parties) to the recently ended relationship. An individual in this position has a duty to use his or her power carefully.
VI. Applying the two-stage analysis: the case of nations

Having explained the general form of the two-stage analysis of associative duties, it is now time to apply it to the specific case of the relationship that holds between co-nationals. Fortunately, because of the conditional nature of my argument, this task is less difficult than it might appear. Recall that my aim is to show that even on the assumption that the relationship between co-nationals is capable of grounding associative duties between its members in principle, the claim that these duties justify the strong norms of distributive justice that are typically thought to apply between citizens (the nationalist justification thesis) is false, because co-national associative duties do not satisfy the condition of guaranteed universal applicability across the relevant domain. The nature of this argument allows (indeed, it requires) us to assume that the type of relationship that holds between co-nationals is a relationship-type that does have impersonal intrinsic value, and that it is therefore one that qualifies as a member of the class of potentially duty-grounding relationship-types.\(^89\)

With this assumption in place we can now move on to the second stage of the analysis. Here we need to do two things. The first thing is to determine whether it is even conceivable in principle for a member of a particular co-national relationship to find that, even though he is still a citizen of the state which incorporates that particular nation, his participation in the thicker, more prescriptive relationship he shares with his co-nationals no longer contributes intrinsically (if indeed it ever contributed intrinsically) to his well-being. The way to do this is to imagine an objectively undesirable co-national relationship\(^90\) (though one that is still minimally just) and ask whether it is possible that at least one member of this bad co-national relationship might find that his participation in the relationship does not contribute intrinsically to his well-being. If we conclude that this is indeed a genuine possibility then we have gone some way, though not all the way, towards vindicating the rejection of the NJT. In order to go all

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\(^{90}\) I explain what I mean by an ‘objectively undesirable’ co-national relationship below.
the way, the second thing we need to do is imagine the *most objectively desirable co-
national relationship* we can, and ask once again whether it is possible that at least one
member of this relationship might find that his participation in the relationship does
not contribute intrinsically to his well-being. If we conclude that this latter situation is
also a genuine possibility then we will have shown that there is *no principled guarantee* that
the associative duties that most citizens owe one another in virtue of their relationship
as co-nationals will be owed by *all* citizens. And this in turn places the proponent of the
NJT in a dilemma: *either* he maintains his commitment to the NJT and abandons his
belief in the universal applicability of the strong norms of distributive justice that are
typically thought to apply to all citizens; *or* he maintains his belief in the universal
applicability of strong norms of distributive justice and abandons his commitment to
the NJT.

Neither horn of this dilemma offers much comfort to the proponent of the
NJT, but the first horn is more uncomfortable than the second. As I mentioned in the
introduction, one thing that unites the views of the various writers who support the
domestic scope restriction of strong norms of distributive justice is that, within the
relevant restricted domain (which in this case is the contemporary nation-state), these
norms are universally applicable. Any argument for the domestic scope restriction
which entails that the scope restriction might become even more severe, so that
eventually not only citizens but even some citizens will be excluded from the scope of
strong norms of justice, can thus effectively be taken as a *reductio*. Of course,
proponents of the NJT are not *logically* committed to its rejection; they might simply
bite the bullet and concede that the restricted scope of strong norms of justice might
indeed be so restrictive as to exclude some citizens as well as all non-citizens. But since
there are few, if any, writers who contemplate such a counter-intuitive position, I shall
assume from now on that the only plausible response to the dilemma for the proponent
of the NJT is the grasp the second horn and abandon his commitment to the NJT.

Returning, then, to the first part of the second stage of the analysis, our
question is this: Is it possible that at least one member of an objectively undesirable co-
national relationship might find that his participation in the relationship does not contribute intrinsically to his well-being? In order to answer this question we first need to know what an ‘objectively undesirable co-national relationship’ looks like. We can start by noting that not all (minimally just) nations are equal. Some have long and illustrious histories, have contributed a great deal to human knowledge and culture, and continue to play a largely positive role in contemporary international affairs. These are objectively desirable traits in a nation. Other nations have little or no history, have contributed relatively little of value to the world, and play a role in international affairs that is at best, ineffective, and at worst, highly disruptive and destabilising. These are objectively undesirable traits in a nation. Most actual nations, of course, are a complex mix of both desirable and undesirable traits, but at present we are only interested in defining a hypothetical archetype of an objectively undesirable (though still minimally just) nation. Such a nation possesses the undesirable traits I have just listed to the highest possible degree, and we can thus take as our archetype a newly forged nation, lacking in heritage, with an unstable, underdeveloped public culture, and an unfriendly and mistrustful attitude towards other nations.

Up to this point I have avoided invoking any particular account of well-being. And as far as possible I want to keep it this way in order to maintain the general applicability of my argument. I must, however, rule out one possible view of well-being, namely, the view that holds that a person’s well-being is only a function of purely objective factors. I am insisting, in other words, that a person’s well-being is at least partly dependent on subjective factors. I leave open the question of what precisely these subjective factors might be: for a person to gain well-being from something it might have to satisfy his ideal preferences, it might have to provide him with pleasure, or it might have to be consciously endorsed by him. All that matters for my argument is that one accepts that the well-being that an individual member gets (or doesn’t get) from his participation in such a co-national relationship does not flow directly from the objective characteristics of the nation, but rather from the way in which these objective characteristics interact with his own personal point of view.
Thus in order to answer our question we not only need some idea of the objective qualities (or lack thereof) of the particular nation in question, we also need to enquire about the specific circumstances of the individual members of this nation. When we do this we will surely find that some people do derive well-being from their participation in the co-national relationship, despite its numerous undesirable traits. For instance, some individuals may have played a leading role in forging the nation’s distinct identity and may thus have a special interest in the success of their project. For others, the new nation may offer a chance to share in a new collective identity, an opportunity that may previously have been unavailable to them. Still others may have a different kind of psychological attachment to the nation, one not based on identity but rather on feelings of patriotism or ‘love of country’. For each of these people membership in the ‘objectively undesirable’ nation will still hold a special significance, and it seems reasonable to think that their participation in the co-national relationship contributes intrinsically to their well-being.

Not everyone, though, will experience the relationship they share with the other members of the undesirable nation as especially significant. Indeed, for some individuals, there may be no reason at all to value their participation in the relationship. Far from playing a part in the formation of the nation, these individuals may simply have found themselves included as members by default. They may experience the collective national identity as alienating. And instead of loving their country, they may actively dislike it. It is hard to see how, for these people, participation in the co-national relationship could be thought to contribute intrinsically to their well-being. I conclude, therefore, that the answer to our first question is ‘yes’, it is possible for at least one member of an objectively undesirable co-national relationship to find that his participation in the relationship does not contribute intrinsically to his well-being.

I now turn to address our second question, which asks: Is it possible for at least one member of an objectively desirable co-national relationship to find that his participation in the relationship does not contribute intrinsically to his well-being? If the answer to this question is also ‘yes’, then, as I explained above, the proponent of the
NJT will find himself caught in the dilemma to which there is only one plausible response, and the rejection of the NJT will consequently be vindicated.

As before, our first task is to specify an archetype of a ‘highly desirable co-national relationship’. I suggested that such a nation would have a long and illustrious history, would have contributed a great deal to human knowledge and culture, and would continue to play a positive role in international politics. Thus we can imagine an ancient nation that has produced a long line of individuals who have contributed a great deal to human knowledge and culture and whose members continue to be engaged in various attempts to improve relations and understanding with other nations. This vague outline of an ideal nation is a good starting point, but in order to answer our question we need to flesh out the ideal in a bit more detail. When we try to do this, however, the problem we have is that, even at a fairly low level of specificity, opinion is divided over what makes a nation ‘desirable’.

Consider, for example, the following two contrasting ideals of nationality. On one hand is the ideal of a nation as analogous to a kind of extended family. Though rather more subtle and sophisticated than the old ideas of ethnic or tribal nationalism from which it has developed, this ‘communitarian’ ideal still sees nations as offering members the chance to share in a powerful common identity with the larger group. Shared traditions, language, history and culture are all important aspects of this interpretation, and a nation contributes intrinsically to the well-being of its members to the extent that it manages to provide them with these goods in a coherent package.

Contrasted with this is an entirely different, much thinner ideal of nationality, one which sees the nation not as a source of common identity but as providing a framework of understanding and an environment of mutual respect within which people who have very different identities can live together. This ‘liberal’ ideal of nationality does not

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92 Miller, On Nationality; Tamir, Liberal Nationalism.
necessarily demand any more or less of individual members in terms of commitment to each other and to the nation itself than the communitarian ideal. The point is that the very existence of the nation will in each case mean very different things, and be justified on different grounds, to its members.

These two competing ideals of nationality are to a large extent mutually exclusive. Although a single nation may well be able to partially fulfil both roles – indeed, many contemporary nations can plausibly be seen as attempting to strike the balance between the thick, prescriptive content of the communitarian ideal and the thinner, permissive framework of the liberal ideal – it is in the nature of these competing ideals that increased success along one dimension will, ultimately, come at the cost of diminished success in the other. There is nothing to be regretted in this fact.94 The reason it is important is because – bearing in mind the subjective element that must be present in any judgment of an individual’s well-being – the competing national ideals will almost certainly advance the well-being of different individuals to different degrees. This means that, from the perspective of the individuals who participate in these relationships, there is no such thing as a ‘perfect’ co-national relationship. Some people thrive in nations that have a strong communitarian character. For these ‘conservative’ individuals, solidarity, stability, commonality, and tradition are the key characteristics of a (personally) valuable co-national relationship. They are not necessarily antagonistic towards difference, they just prefer not to live with it. Other people, however, are much happier living in a nation modelled on the liberal ideal. For these ‘cosmopolitan’ individuals the homogeneity of the communitarian nation is not reassuring, it is restrictive. They value diversity, dynamism, and disagreement against a background of fairness and mutual respect.95

94 At least, not insofar as we are focused on the well-being that the individual participants derive from their participation in nations that fit these two models. The mutual exclusivity of the two models might be regretted on impersonal grounds, since it may turn out that both models represent unique and irreducibly valuable ideals that cannot both be realised simultaneously. But this impersonal assessment is not our concern here.
95 For a much more detailed and extended comparison between these two perspectives, see, J. Waldron, ‘Minority Cultures and the Cosmopolitan Alternative’, University of Michigan Journal of Law Reform, 25 (1992), 751-793.
Assuming that any particular nation will have a membership composed of a mixture of individuals, some with a more cosmopolitan outlook, others with a more conservative outlook, the way to guarantee that as many people as possible derive well-being from their participation in the nation – and this seems to be something that most modern nations have learnt, as my comment above indicates – is to achieve a balance between the communitarian and liberal extremes. Is it possible that a nation built on such a compromise will be able to make a guaranteed positive contribution to the well-being of all participants?

Clearly it is difficult to answer this question with any certainty. What we can say, at least, is this: any nation will have to take a position on a range of fundamental ethical questions as it works out how to balance the rights and freedoms of the individual against the values and character of the national community. How it goes about doing this is one of the most important and controversial issues in political philosophy, and this is not the place to discuss it in any detail. But as Michael Sandel has said, ‘for all our uncertainties about ultimate questions of political philosophy – of justice and value and the nature of the good life – the one thing we know is that we live some answer all the time’. Participation in a nation entails duties to uphold whatever ‘answer’ is being lived by the members of that nation at any particular time. There may be ostensible opportunities to effect a change in that answer, but for any particular individual this opportunity is, in reality, little more than a formality. And when we recall Dworkin’s point that ‘it is implausible to think that someone can lead a better life against the grain of his most profound ethical convictions than at peace with them’, it seems highly unlikely that the ‘answer’ that the members of a particular nation collectively live can ever be so ‘at peace’ with the profound ethical convictions of each and every participant.

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97 As Miller notes, it is important that members of the nation have a chance to ‘contribute on an equal footing’ to the ‘processes of rational reflection’ that shape a nation’s ‘public culture’, Miller, On Nationality, p.70. However, while the chance to contribute on an equal footing may be a right that people should have, in a nation of millions it is not clear to what extent one’s possession of this right can realistically contribute to one’s well-being.
98 Dworkin, 'Liberal Community', p.486.
as to guarantee that everyone will receive a positive well-being contribution from his participation.

A person who finds that his participation in a co-national relationship does not make an intrinsic contribution to his well-being need not deny that (some of) his fellow citizens find such participation a deeply significant source of well-being. Nor need he deny that there is impersonal value inherent in the fact that these other participants are participating in a highly complex collective endeavour that endures over time and perhaps produces all manner of valuable things. Nor, finally, need he deny that the nation which underpins his state is instrumentally valuable in providing him and his fellow citizens with access to certain goods (such as, for example, a stable democracy, or, as we saw in the last chapter, the conditions necessary for wealth creation). But none of these reasons: the well-being of others; the impersonal value of the nation; and the instrumental benefits of membership, provides the individual in question with the right kind of reason to see himself as the bearer of associative duties towards his co-nationals. This is because these other types of reasons can be equally appreciated by non-citizens as well as citizens.

For consider: as a citizen of Britain, I can appreciate that there are many French people for whom participation in the French nation is intrinsically valuable. I can also appreciate that there is something impersonally valuable about the existence of the French nation. Finally, I can appreciate that the French nation, by providing the cultural underpinnings of the French state, plays an important instrumental role in maintaining the stability of the conditions necessary for wealth creation and democracy. No one suggests that the first and second of these reasons entails that I owe associative duties to the members of the French nation. And, as I argued in the previous chapter, the third reason places the burden of proof on the citizens of France, not on me, to explain why I am excluded from the strong norms of justice that determine how the wealth that is created as a result of the stability provided by the French nation is to be distributed.
The only situation in which I would have a reason to see myself as the bearer of associative duties to the members of the French nation would be if (a) I was accepted as a member and (b) my participating in the relationship contributed *intrinsically* to my well-being. What I have essentially argued in this chapter is that we can grant the truth of (a) without thereby committing ourselves to the truth of (b), because (b) is not necessarily true for people of whom (a) is already true. In general, there is *no necessary reason* why an individual’s participation in a specific token of an impersonally valuable relationship-type (such as the relationship between friends, family members, or co-nationals) *must* contribute intrinsically to his well-being. I therefore conclude that the proponent of the NJT is indeed caught in the dilemma set out earlier: *either* he maintains his commitment to the NJT and abandons his belief in the universal applicability of the strong norms of distributive justice that are typically thought to apply to all citizens; *or* he maintains his belief in the universal applicability of strong norms of distributive justice and abandons his commitment to the NJT. I claimed that the second horn of this dilemma is the least uncomfortable and, therefore, that the putative proponent of the NJT is actually committed to its rejection. There is something troubling about the idea that a person might be able to withdraw from a significant portion of their duties of justice in the same way that a person might withdraw from a group of friends they no longer have reason to associate with. Both commonsense morality, and the views of the majority of philosophers who work on the topic, support the idea that strong norms of distributive justice apply universally across the relevant domain (even, or perhaps especially, if this domain is restricted to the boundaries of the contemporary nation-state). If my argument in this chapter is correct, then the NJT contradicts this widely held belief, and should be rejected as a result.

**VII. Conclusion**

In this chapter I have argued that even if the relationship between co-nationals can generate associative duties, there is no guarantee that these duties apply to every putative member of the nation. And unless those who support the domestic scope restriction of strong norms of distributive justice are willing to countenance the
possibility that some citizens can claim exemption from (some of) the duties that these
norms give rise to – on the grounds that their participation in the co-national
relationship makes no intrinsic contribution to their well-being – then the NJT should
be rejected.

What we have seen in the last two chapters, then, is that both the statist and
nationalist justifications of the domestic scope restriction fail. These are, I believe, the
most powerful arguments that have been offered in support of the domestic scope
restriction. But of course, their failure does not prove that the domestic scope
restriction is unjustifiable. Rather than continue to try to take on potential new
justifications and knock them down, one by one, however, I am now going to pursue a
rather different line of enquiry.

Up to this point I have been employing the concept of ‘distributive justice’ in
what I take to be a fairly standard way, namely, as referring to a set of norms (or, which
amount to the same thing, rules or principles) which specifies the scope and content of
our duties of justice. I have distinguished between strong and weak norms of
distributive justice and suggested that each might have a different scope of application.
I have also suggested that the content of these norms might be given by duties that
arise from a range of different sources, including the duties that arise from the
application of universal principles such as the principle of reciprocity and the duties
that arise as a result of the special relationships we have with certain groups of people.
For many of the theoretical aims that philosophers have, this fairly simplistic ‘standard
model’ of distributive justice is perfectly adequate. But I believe there are some justice-
related problems that can only be solved – indeed, that can only be recognised as
problems in the first place – by developing and employing a more nuanced
understanding of the concept. Working out what our duties of justice are in the face of
massive global inequality is one such problem. And it is to the development of a
theoretical model of justice that will help us to understand and deal with this problem
that I now turn.
I. Introduction

Defining the concept of justice as accurately as possible is not only useful for helping us understand certain difficult problems. It is also important for two more general reasons. First, as a purely theoretical matter it would be very useful – and would save a great deal of time and effort – if we could reach a consensus on how to use the word ‘justice’. In the absence of such a consensus it is too easy for theorists of justice to mistake what is in fact agreement for disagreement on matters of substance, all because they are using the word ‘justice’ in slightly different ways. There is also a second, more practical reason why it is important to be particularly careful about how we use the word ‘justice’. However it is interpreted, the concept of justice is one of the most powerful ideas in the political philosopher’s armoury; by identifying a particular social phenomenon as unjust, what we are saying is that the reasons for remedying the situation are especially powerful. And of course, the hope is that by identifying a phenomenon as unjust and thus highlighting the fact that the reasons for remedying a situation are particularly powerful, we make it so that the chances of it actually being remedied are much higher than they would have been if we had identified the phenomenon in a different way, say, as ‘unfortunate’, or ‘bad’, or even perhaps ‘immoral’. The inherent power of the idea of justice to influence and potentially transform political practice means that how we interpret the concept is not a matter of purely intellectual interest: if, on the one hand, our interpretation is too conservative and restrictive then we risk leaving very serious cases outside the potentially protective and ameliorative scope of justice; on the other hand, if our interpretation is too ambitious and we stretch the range of its application too far to include unserious or nonessential cases, then we risk devaluing the concept of justice and reducing its transformative power in future.

In this chapter and the next, my aim is to survey what I take to be the four main interpretations of the concept of distributive justice. I begin, in the next section, by
introducing what I call the ‘basic idea’ of distributive justice, an idea which lies at the root of all four of the more substantive interpretations that I go on to consider. In section III I then present a brief outline of the four views I shall discuss. In section IV I explain why the first view I shall discuss, the ‘currency view’, should be rejected as an interpretation of the concept of justice. Sections V and VI then set the stage for the critical discussion of the second view I shall discuss, the ‘institutional view’. The institutional view is a more promising interpretation of justice than the currency view but, after considering several arguments in favour of interpreting justice according to the institutional view, I conclude that it too should be rejected as an interpretation of justice.

II. The basic idea of distributive justice

Distributive justice is sometimes interpreted as a concept that is concerned only with the distribution of income and wealth – and indeed this usage has been implicitly attributed to Rawls. In fact, though, Rawls himself refers to the distribution of income and wealth as ‘distributive justice in the narrower sense’, thus implying that distributive justice in the ‘full’ sense includes more than merely a concern for the just distribution of income and wealth. I think clarity is better served by reserving the name ‘economic justice’ for this latter topic and by then viewing economic justice as only one (important) part of the wider topic of distributive justice, which is concerned with the distribution of things other than income and wealth.

Distributive justice is also sometimes taken to be synonymous with ‘social justice’. Social justice is often thought of as characteristically concerned with the distribution of certain kinds of goods such as political rights and freedoms, job and educational opportunities, and income and wealth. But the real defining feature of social justice is its singular concern with a particular context of distribution – the modern nation-state – rather than the particular content of the goods being distributed. Since

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more or less everyone in the world lives in a state, and since the policy of the state in which a person lives largely determines the share of the good and bad things in life that they end up with, social justice is a very important part of distributive justice. But social justice is not all there is to distributive justice, because the good things and bad things in life are distributed not just within states but across them, and not just by states but by various kinds of non-state actors.

Like all complex concepts it is easier to explain what distributive justice is than to explain what it is. Nevertheless, with regards to the latter task it has often been suggested that a good place to start is with the idea that distributive justice is concerned with the type and amount of the goods things and bad things in life each person is due. This basic idea is a useful place to start in any attempt to define the concept of justice because it helpfully leaves open several difficult and controversial questions. It leaves open, for instance, the question whether all of the good and bad things in life are proper subjects of distributive justice or whether only a subset of these things is relevant to determining what a person is due. It leaves open the question of why people are due these things. And it leaves open the question of how we may go about ensuring that people receive these things. The advantage of adopting such a broad notion as a starting point in our attempt to define justice is that, as a statement about the basic idea underlying the concept, it is capable of gaining the support of theorists who hold very different views about the correct answers to these questions. Nevertheless, we have good reason for wanting to move beyond this basic idea towards a more precise definition of the concept.

The problem with the basic idea of distributive justice as a concept concerned with ‘what people are due’ is that it is simply too permissive. First, it leaves so much scope for disagreement that any debate between proponents of different answers to the questions listed above is likely to lack any clear direction or coherence. Unless the concept is defined more precisely there is a danger that proponents of particular conceptions of justice will not really know what they are arguing about or why they are

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arguing about it. Second, there are lots of occasions when it makes perfect sense to say that a person is ‘due’ something even though whether or not they actually receive it is generally *not* considered to be a matter of justice. Examples include the honesty and attentiveness we are due from friends and lovers, the fidelity we are due from people who have made us promises, or the assistance we are due from strangers when we find ourselves in trouble. Certainly when a person does not receive what he expects to receive from a friend, a promise-maker, or even a total stranger in a time of need, he feels let down, perhaps even cheated. But he is unlikely to describe the resulting situation as *unjust* (except, perhaps, metaphorically). It seems clear, therefore, that there must be more to the concept of justice than what is implied by the basic idea of determining ‘what people are due’. As we refine our definition of the concept of justice we need to keep two things in mind: First, what is the *point* of justice? What are people who are arguing over the content of justice arguing about and why does it matter? Second, what is it that distinguishes what we are due as a matter of justice from what we are due as a result of other values (such as friendship or fidelity or charity)?

### III. Refining the definition – four alternatives

In this section I briefly outline four possible ways of refining our basic definition of justice. The idea at this stage is merely to introduce the four alternatives as simply and straightforwardly as possible. More detailed explication and critical assessment of the four views follows below (with the rest of this chapter devoted to discussing the first two alternatives and the following chapter devoted to discussing the final two alternatives). The four views I shall discuss are what I call the ‘currency view’, the ‘institutional view’, the ‘coercion-justifying view’, and the ‘ideal-of-fairness view’.

According to the currency view, claims or demands of justice are to be distinguished (in particular from claims or demands grounded in other values) on the basis of the kinds of things to which the claims or the demands in question refer. If the currency view is correct then there is some good X (or some group of goods, X, Y, Z, 

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103 This seems to me a criticism that could be forcefully made of a great deal of the literature on distributive justice.
etc.) such that we can tell in advance whether a debate over the distribution of something is a debate about distributive justice by looking to see whether or not the debate in question concerns the distribution of X (or some members of the group X, Y, Z, etc.). It is important to note that the currency view does not include any inherent restriction on the type of goods that might define justice. They may be exceedingly abstract (e.g. rights, liberties, or well-being) or they may be more concrete (e.g. money, food, or housing). The point is that once one type of good or group of goods has been picked out as conceptually linked to justice, then any distributive question that does not directly or indirectly concern these goods is not a matter of justice but of something else. For instance, someone might try and argue, contrary to what I claimed above, that the currency of justice is income and wealth, and that this explains why obligations of friendship do not, at least not typically, raise questions of justice. Alternatively, someone might argue that rights are the currency of justice, and that this explains why questions of charity are distinct from questions of justice. The plausibility of these claims, and the cogency of the currency view in general are issues I take up in the next section.

The second attempt to define the concept of justice is what I call the institutional view. This is a view of justice most famously (though, as we shall see, erroneously) associated with Rawls, and subsequently taken up by a number of his followers (most notably Thomas Pogge).104 According to the institutional view, justice is a quality uniquely possessed by the publicly recognised rules or ‘institutions’ which regulate human interaction. Justice, which applies to institutions, is thus to be distinguished from other moral values which do not apply to institutions but, instead, apply directly to specific actions carried out by particular agents. The cogency of this view obviously depends to a large extent on the way in which we interpret the idea of an institution. For consider the phenomenon of friendship. On the one hand, the practice of friendship is obviously less rigidly rule-guided than more formal social structures such as the system of private property and the legal system. On the other

hand, the general form of the practices and rituals that constitute friendship is not only fairly well-defined but also widely known and understood. Whether or not a coherent distinction can be maintained between the institutions to which the concept of justice applies and the social practices which fall outside the purview of justice is among the questions I take up when I explain and assess the institutional view in more detail in section VII.

The third attempt to define the concept of justice I refer to as the coercion-justifying view (the ‘coercion view’ for short). Unlike the currency view and the institutional view, the coercion view does not interpret justice as simply one moral value (albeit one with certain distinguishing features) among others. Instead, according to the coercion view, justice is the name given to the subset of moral requirements that can be justifiably enforced through the use of coercion. To be clear, the point is not that moral demands which are classed as demands of justice are obligatory whereas moral demands which are not classed as demands of justice are somehow not. As John Stuart Mill points out, both kinds of moral demands, insofar as they are valid, are compulsory – if they were not, it would be difficult to explain what is blameworthy about a person’s failure to fulfil them.\footnote{J. S. Mill, \textit{Utilitarianism, second edition}, (London: Longman, Green, Longman, Roberts and Green, 1864), p.72.} The point is rather that, while all moral demands are obligatory, only some of them are (justifiably) enforceable through coercive means. To see how the coercion view might explain what it is that distinguishes considerations of justice from non-justice considerations, contrast the moral requirement (or demand, or obligation, or duty – the precise word we use is not important at this stage) to respect a person’s property or his bodily integrity with the moral requirement to be a good friend or to give money to charity. If the requirement to respect a person’s property or bodily integrity is violated, or looks like it might be violated, then the person in question (and perhaps also third-parties too) is automatically justified in using coercive means in order either to prevent the violation from occurring or to restore things to how they were before the violation. Contrast this with requirements of friendship or charity. If a person fails to help out a friend when
she should, or fails to give assistance to a person in need when she should, then, although we are justified in admonishing or rebuking her for her moral failure, we are not justified in coercing her into fulfilling her obligations to her friend or to the person in need. Notice that the proponents of different conceptions of the coercion view of justice, each of whom agrees by definition that justice marks out that subset of our moral requirements that are coercively enforceable, may disagree about what it is, exactly, that qualifies a moral requirement for coercive enforcement. Some may think that it is simply a matter of the seriousness or weightiness of the requirement. Others may think it depends on the way in which the requirement was formulated or deduced (e.g. through some specific kind of constructivist procedure). Still others may think it depends on whether the requirement was issued by a formal body such as a court or a legislature. And so on. Clearly the coercion view of justice leaves a great deal of room for interpretation. Whether this is a drawback or not is something I discuss when I analyse the coercion view in more detail in the next chapter.

The fourth and final attempt to define the concept of justice that I shall discuss is what I call the ideal-of-fairness view (the ‘fairness view’ for short). The fairness view of justice also leaves a great deal of room for interpretation, although it is surely a narrower and more restrictive interpretation of the concept than that represented by the coercion view. According to the fairness view, there is no longer an inherent link between justice and justified coercion. Instead, justice is identified as synonymous with fairness, or, more specifically, with the conditions that define an ‘ideally fair distribution’. In order to adequately distinguish the coercion view from the fairness view it is important to note that the constitutive features of an ideally fair distribution are to be defined prior to and independently of an all things considered judgement of what people would be justified in coercing each other into doing. An important implication of the fairness view is that it may not always be justifiable, and indeed it is conceivable that it may never be justifiable, to coerce people into producing an ideally fair distribution. Precisely how the notion of an ‘ideally fair distribution’ should be understood is a matter I discuss in greater detail in the next chapter. What is certain is
that proponents of different conceptions of the fairness view will have different ideas about what constitutes an ideally fair distribution. Some conceptions of an ideally fair distribution will identify fairness with a version of equality, but this will not always be the case. Sometimes a fair distribution will be seen as one that allocates goods to people in proportion to need, or merit, or desert. What we can say in general is that a distribution is unjust, on the fairness view, if and to the extent that it does not mirror the ideally fair distribution, whatever this is taken to be.

These four attempts to define distributive justice – the currency view, the institutional view, the coercion view, and the fairness view – represent the most common interpretations of the concept. Since it is reasonable to assume that not all four views are simultaneously correct, it would appear that in order to start arguing positively for a particular conception of justice we first have to make a choice as to which interpretation of the concept, or which combination of interpretations, we have most reason to adopt. Unfortunately, this is one hugely important question about which the vast literature on distributive justice has surprisingly little to say. The reason for this is that very few writers who theorise about distributive justice are ever fully explicit about which of these four views, or which combination of these four views, they take themselves to be employing. Such vagueness would matter little if everyone (or nearly everyone) was employing roughly the same view. In this situation it would be relatively easy to piece together the core concept from the significant overlap that would exist between various conceptions. As things are, however, no such simple solution presents itself. For in spite (or perhaps because) of the general lack of clarity that characterises many writers’ interpretation of the concept of distributive justice, each of these four views of justice is clearly represented in the literature. If we try and indicate which writers in particular support which view(s) the problem we face is simply that it is rare for any single view to be defended by a particular writer in its pure form. Often a writer will combine, more or less consciously and rarely explicitly, different elements of these four interpretations of the concept. Attempting to pigeonhole philosophers is always a difficult and risky business, and the current discussion is no exception. Nevertheless, I
think we can say with some confidence that the currency view is typically employed by libertarians of the right and left, such as, respectively, Robert Nozick and Hillel Steiner,\(^ {106}\) who both interpret the concept of justice as fundamentally concerned with the distribution of rights.\(^ {107}\) The institutional view, as I mentioned above, is explicit in the work of Thomas Pogge.\(^ {108}\) The coercion view can be attributed (with some important reservations which I shall discuss later) to John Rawls.\(^ {109}\) And finally, the fairness view is the view taken by G.A. Cohen.\(^ {110}\) The unsurprising result of this deep, widespread, and yet largely unacknowledged disagreement over the concept of justice itself is that contemporary theorists of distributive justice spend a lot of time simply talking past one another.\(^ {111}\) In the next three chapters my aim is to shed some light on this conceptual debate and to suggest a way forward.

**IV. Rejecting the currency view**

Philosophers and non-philosophers alike are familiar with the standard list of goods such as basic liberties, wealth and income, and job and educational opportunities around which debates over social justice are often conducted. Indeed it is largely because of the familiarity of this list that we need to take care not to jump to the conclusion that this particular list of goods, which undoubtedly plays a role in defining social justice,


\(^{107}\) Although I shall leave this complication to one side it is worth noting Jeremy Waldron’s argument that, in fact, Nozick’s theory should be interpreted as a duty-based rather than a right-based theory, since the ‘strict deontology of side-constraints’ favoured by Nozick only makes sense as part of a duty-based theory focused on the intentions of agents, rather than the interests of victims. See, J. Waldron, ‘Introduction’, in J. Waldron (ed.), *Theories of Rights*, (Oxford: Oxford University Press, 1984), 1-20, p.16.


also plays a role in defining *distributive* justice. As I mentioned in section II, above, the concept of distributive justice is much broader than the concept of social justice, and addresses many questions in addition to the social justice-specific question of how the benefits and burdens of social interaction should be shared between the members of a particular state. What theorists of *distributive* justice who take the currency view are looking for is a ‘common currency’ that will explain not only why the familiar list of social justice-related goods looks the way it does but also what links this list of goods to the other goods that are deemed to be relevant to questions of distributive justice in other spheres, from the pressing matter of global distributive justice, to more esoteric concerns over, say, the just distribution of resources on (real or hypothetical) desert islands.

If such a common currency does exist then, clearly, in light of the heterogeneity of spheres in which questions about ‘what people are due’ can arise, it will have to be very general and thus highly abstract in nature. One potential problem with this is that when we think about what the common currency might be, the list of possible candidates itself is so thoroughly heterogeneous that making a reasoned choice is likely to be very difficult. But let’s assume that we can overcome this problem. Let’s assume that we conclude that the common currency of justice is some kind of resourcist metric. It is important to realise just how bold a conclusion this is. We are not saying that the resourcist metric we favour represents the most plausible interpretation of the currency of justice. What we are saying is that unless one is talking in terms of our favoured resource metric one is not saying anything meaningful about justice at all. From such a perspective a debate between a capability theorist and a welfarist would look very peculiar – it would seem as if both participants, though claiming to be talking about justice, were in fact talking about some completely different concept (or perhaps just talking nonsense). This does not seem like the right conclusion. It is hard to believe that all but one of the parties involved in the currency debate (welfarists, resourcists, capability theorists, etc.) have collectively succumbed to some kind of deep conceptual

112 Well known options include various types of neutral resource metrics and measures of well-being, to opportunity for well-being, access to advantage, and capabilities to function in various ways.
confusion – thinking they are talking about justice when they are actually talking about something else, or nothing at all. More likely, we might think, is that there simply is no single currency that can be linked with the concept of justice by definition. The explanation for why all these different conceptions of the currency of justice are conceptions of justice, rather than something else, must lie elsewhere.

Before rushing to this conclusion, however, it is instructive to note that whatever the precise details of the views held by resourcists, welfarists, and capability theorists, one thing is certain: they share a commitment to the idea that what justice is ultimately concerned with is the distribution of goods (and bads) that are of deep and perhaps fundamental importance for people’s lives. This is obviously a rather vague notion, but the essential idea is that, insofar as justice is concerned with the distribution of goods and bads that appear to have only trivial significance for people’s lives, it is only because the distribution of these things affects the distribution of a more fundamental and hence much more significant thing. This agreement between the proponents of various different currencies on the ‘fundamentality’ of the currency of justice should give us a clue as to how we might yet be able to identify the concept of justice with one currency in particular. What we are looking for is some kind of common currency that is capable of representing, on the one hand, the disparate content of the goods picked out as basic by the various substantive views already mentioned and, on the other hand, the shared characteristics of these disparate goods, namely, their fundamental importance to people’s lives.

With these two criteria in mind, two obvious candidates immediately suggest themselves: rights and duties.\textsuperscript{113} The highly general and abstract nature of rights and duties means that these ideas can be plausibly assigned a central role within almost any conceivable conception of justice; it is perfectly natural, for instance, to talk about a right to a certain share of resources or a certain level of well-being, or a duty to support

\textsuperscript{113} In order to avoid unnecessary complications I shall not differentiate between right-based and duty-based approaches. The two concepts are obviously very closely related, and whether one thinks that rights are basic and that duties are derived from them, or that duties are basic and that rights are derivative, what is important is that both concepts satisfy the two desiderata of a common currency that I mentioned above.
certain kinds of institutions or to provide others with certain capabilities to function. Moreover, rights and duties seem particularly well suited to the task of representing the fundamental significance of justice-related goods: they (usually) apply to everyone, and, as Jeremy Waldron notes about rights in particular, they have ‘often been characterised in terms of their strength, their urgency, their peremptory character, even their conclusiveness in political argument’.\footnote{Waldron, ‘Introduction’, p.14.}

According to right/duty-based interpretation of the concept of justice, then, questions concerning the content, scope, and justification of our rights and duties do not simply have a bearing on problems of justice, they define these problems as problems of justice. Notice, once again, what a bold claim this is. The proponent of the right/duty-based version of the currency view is effectively saying that if a putative theory of ‘justice’ can conceivably be framed in such a way that it makes no essential reference to the concepts of rights and duties, then that theory is not in fact a theory of justice at all but a theory of something else (or of nothing in particular). Now of course it is true that most, if not all, theories of justice refer at some point to the concepts of rights and duties. But on closer inspection it is clear that these concepts rarely play the essential, foundational role in these theories that the proponent of the right/duty-based version of the currency view claims they must if these theories are to be classed as genuine theories of justice. The reason for this is that most theories that invoke the concepts of rights and duties distinguish rights and duties of justice from other kinds of moral rights and duties, and in order to explain this distinction they typically refer to one of the other three views of justice (or some combination of them). What this shows is that these theories are not really examples of the currency view after all, since what defines the content of justice in these theories is nothing to do with rights and duties and all to do with the explanation of what is special about rights and duties of justice.\footnote{There are some important exceptions to this general claim that I deal with below.}

It is simple enough to demonstrate the truth of the claim made in the previous paragraph. Consider, for example, theories of justice that claim that what determines
whether a right is a right of justice as opposed to a non-justice-based moral right is whether the interest which generates the putative right is sufficiently strong to warrant holding someone else to be under an enforceable duty to satisfy or protect that interest.116 Such a theory is clearly an example of the coercion view of justice, rather than a right/duty-based version of the currency view of justice, because the explanation for why the right in question is a right of justice is provided by the fact that something so important is at stake that it justifies one or more people exercising coercion over another person or group of persons in order to satisfy or protect it.

Much the same can be said about theories of justice that invoke the concepts of rights and duties but which are more accurately described as versions of the institutional view. Thus, for example, an institutionalist might say that rights and duties of justice can only be created by institutions. This gives rights and duties a central place in the theory, but, again, it is only a derivative rather than a foundational role. What is really doing the work in the argument – the thing that explains why the rights and duties created by institutions are rights and duties of justice – is the power that institutions have to create special kinds of entitlements and allocate special kinds of requirements; rights and duties are simply useful labels for these things – they play no necessary or fundamental role in the theory.117

Finally, consider the fairness view. It is perfectly open to the proponent of the fairness view to stipulate that what each person has a right to is what he or she would have under a perfectly fair distribution. It might even be possible to say that other people have a duty (though not necessarily an enforceable one) to supply right-holders with what they would have under a perfectly fair distribution. But again, it is clear that the fundamental concept at work here is the idea of a perfectly fair distribution; the existence and normative force of any rights and duties that are created as a result is

116 An example of someone who appears to agree with this view is Miller, National Responsibility and Global Justice, p.248.
117 For an argument against the classic, Benthamite version of the institutionalist claim that rights can only be created by institutions, see, D. Lyons, 'Utility and Rights', in J. Waldron (ed.), Theories of Rights, (Oxford: Oxford University Press, 1984), 110-136.
ultimately to be explained by referring back to the thing which defines these rights and
duties as rights and duties of justice, namely, the ideal of a perfectly fair distribution.

It seems clear, then, that even though most theories of justice make use of the
concepts of rights and duties at some point, the normative role these concepts play is a
derivative rather than a foundational one, and so they cannot be appealed to in order to
explain what defines these theories as theories of justice. At least, this is usually the case,
for as I indicated above (see fn.146), there are a few important exceptions to this
general claim. The exceptions are those theories which purport to tell us what justice is,
purely through an analysis of the concept of a right. Such theories are genuinely right-
based, because nothing other than the bare concept of a right is appealed to in
delineating the contours of any particular conception of justice. According to such
theories, rights are truly foundational.

The clearest and best-known example of such a genuinely right-based theory of
justice is Hillel Steiner’s theory of ‘left-libertarianism’. Steiner claims that ‘the
elementary particles of justice are rights. Rights are the items which are created and
parcellled out by justice principles’. On its own, of course, this claim is merely
stipulative. But Steiner goes on to justify it through a complex analysis of the nature of
rights and their exercise. Noting that rights-claims are typically invoked in ‘adversarial
circumstances’ in which people make conflicting claims to the same piece of ‘action-
space’ (i.e. the physical components of time and space that are necessary for any
action), Steiner attempts to demonstrate that principled resolutions of these conflicts
are only available if the rights being invoked are ‘compossible’ (i.e. jointly possible).
This powerful compossibility constraint, combined with several other constraints
grounded directly in the formal features of rights themselves, generates a lexically-prime
rule (one which trumps all other moral considerations) for the distribution of rights,
which in turn determines the allocation of spheres of negative liberty within which
individuals are left to pursue their (possibly immoral) ends free from the interference of

other. This is not the place to explain the complexities of Steiner’s view in more detail or to assess its overall plausibility. But, as this very brief summary makes clear, Steiner’s theory represents an ingenious attempt to generate a substantive theory of justice from the pure concept of a right. And, as such, it presents a serious challenge to my rejection of the currency view of justice. For that rejection, up to now, has been based on the claim that most theories of justice that include claims about rights and duties only invoke these concepts in a derivative rather than a foundational sense, and that they therefore presuppose one of the other three views of justice. Steiner’s theory, in contrast, allocates an explicitly foundational role to rights, and in doing so it clearly escapes my general objection.

Ideally I would like to be able to respond to Steiner’s argument by showing that, ultimately, his right-based theory also presupposes one of the other three views of justice. Unfortunately I do not have such a response – and I’m not sure there is one. Fortunately, however, this lack of a strong response to the challenge posed by Steiner’s theory does not preclude a somewhat weaker one – one that, I believe, will rescue (at least temporarily) my attempt to reject the rights-based view as a distinct view of justice. The weaker response is this: while Steiner’s view may not, strictly speaking, presuppose one of the other three views of justice, it is nevertheless possible to redescribe it in terms of one of the other three views (namely, the coercion view), thus vindicating the general rejection of the currency view as a distinct interpretation of the concept of justice.

My grounds for making this weaker response are a number of quotes in which Steiner makes it clear that his theory of rights-based justice is extensionally equivalent to a justified-coercion theory of justice. Consider, for example, Steiner’s claim that: ‘one freedom which my rights do assign to me (or my agents) is the freedom to do acts enforcing the correlatively dutiful conduct of others…My right assigns to me the pure negative freedom to curtail your pure negative freedom’. Alternatively, consider

Steiner’s argument (expressed in agreement with Kant) that:

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119 This summary of Steiner’s view is largely borrowed from the summary Steiner himself gives. Steiner, An Essay on Rights, pp.1-5.
120 Steiner, An Essay on Rights, p.74.
...a set of rights is a prescribed interpersonal distribution of freedom...[and] a rights-violator, by engrossing some of his victim’s allotted freedom and therefore (in a compossible set of rights) exceeding his own, alters that distribution...[and] one is thus licensed by that same prescription to use force against the violator, i.e. to diminish his freedom, in order to restore that distribution.\footnote{Steiner, \textit{An Essay on Rights}, p.213.}

In these quotes, and at numerous other points in his work, Steiner makes it clear that the implication, if not the intention, of his theory of justice is to tell us when the exercise of coercion is justified and when it is unjustified. And this means that Steiner’s view does not in fact create a barrier to my goal of rejecting the currency view as a distinct view of justice.

I have argued that insofar as the currency view of justice has any plausibility at all, the only credible candidate currencies are rights and duties. However, most theories that invoke the concepts of rights and duties distinguish rights and duties of justice from other kinds of rights and duties, and in order to explain this distinction they typically refer to one of the other three views of justice (or some combination of them). This shows that they are not really examples of the currency view after all. Hillel Steiner’s theory demonstrates that not \textit{all} right/duty-based versions of the currency view presuppose one of the other three views. But Steiner’s view nevertheless \textit{entails} one of these three views, and such entailment is all that is required in order to vindicate the proposed rejection of the currency view as a distinct view of justice. Ideally I would like to rule out in principle the possibility of a right/duty-based version of the currency view that neither presupposes nor entails the coercion, institutional, or fairness view of justice. But since this would be a task of infinite duration I shall have to settle for the contingent conclusion offered here.

\textbf{V. The primary subject of justice}

I now want to go on and show that the institutional view of justice should also be rejected as a distinct view of justice. Before doing so, however, I need to introduce and explain a distinction which was not important for the discussion in the previous
section but which is of central importance to understanding the institutional view. The distinction captures the difference between two different categories of ‘subject’ to which judgements of justice apply. The first kind of subject is what I call a ‘derivative’ subject of justice. When we ask what makes an act, or an institution, or a state of affairs just or unjust, the answer is often that it contributes to or results from something else that is antecedently recognised as just or unjust. So, we might describe an act as just because it is required by or permissible according to a just institution, or because it helps contribute to a more just distribution. An institution might be described as just because it requires or encourages certain kinds of just action or because it helps maintain a just distribution. A state of affairs might be described as just because it results from just acts or from just institutions or both. When a possible subject of the predicate ‘just’ is just in this sense (i.e. because of its relation to something else that is antecedently recognised as just) I shall say it is derivatively just.

The existence of such derivative subjects of justice implies the existence of (at least one) kind of subject that is non-derivative. This second kind of subject I refer to as a ‘primary’ subject of justice. A primary subject can be defined negatively by saying that, for any potential subject of justice X, X is a primary subject of justice when the answer to the question ‘what makes X just or unjust?’ does not refer to a further subject. If, for example, we ask whether a particular action is just or unjust and the answer refers to the justice or injustice of the institutional structure against which the action was carried out, then we know that in this instance actions are being taken as derivative subjects of justice. If, on the other hand, the answer does not refer to the justice or injustice of a different subject, but refers to some inherent quality of the action itself, then we know that in this instance actions are being taken as primary subjects of justice.

122 The phrase ‘primary subject of justice’ was famously used by Rawls to describe the basic structure of a well-ordered society. Rawls’s use of this idea, however, is different to mine. When Rawls says that ‘the basic structure is the primary subject of justice’ he means it is the most important of our justice-relevant concerns. He thus leaves open the possibility that there are other fundamental principles of justice that apply to subjects other than the basic structure. On my interpretation, in contrast, to describe the basic structure as the primary subject of justice is to implicitly reject the possibility that there are other fundamental principles of justice applying to other subjects.
Different theorists of justice have argued for a variety of primary subjects (in my sense of ‘primary’).\textsuperscript{123} Below I have listed the four main candidates for the role of ‘primary subject of justice’ and I have suggested a label for the type of theorist who defends the primacy of a certain type of subject in each case:\textsuperscript{124}

1) Distributions (states of affairs) - Distributivists
2) Institutions (and institutional schemes) - Institutionalists
3) Actions - Interactionalists
4) Individuals – Virtue ethicists\textsuperscript{125}

By choosing one (or more) of these subjects as the primary subject(s) of justice, the theorist is not denying that the remaining subjects can also meaningfully be described as just or unjust, they are merely pointing to the logically subordinate status of the latter. Thus distributivists such as G.A.Cohen, Brian Barry or Liam Murphy who take distributions to be the primary subject of justice determine the justice of institutions, actions, and individuals, by referring to the role they play in maintaining the justice of a distribution. Institutionalists such as Thomas Pogge determine the justice of distributions, actions, and individuals, by referring to their relation to institutions. And interactionalists such as Robert Nozick determine the justice of distributions, institutions, and people, by referring to their relation to actions.

The fact that a commitment to a particular primary subject of justice does not preclude a discussion of the justice or injustice of derivative (i.e. non-primary) subjects might seem to call into question the point of making the distinction in the first place. If

\textsuperscript{123} For a good early discussion of this idea, see, H. A. Bedau, 'Social Justice and Social Institutions', \textit{Midwest Studies in Philosophy}, 3 (1) (1978), 159-175.

\textsuperscript{124} ‘Institutionalist’, ‘interactionalist’ and, of course, ‘virtue ethicist’ are all more or less well-known terms in the literature. ‘Distributivist’ is, as far as I know, a new term. It might be thought that there is no need for a new term here when the much more conventional ‘consequentialist’ would do just as nicely. The reason I do not use the term ‘consequentialism’ to describe a distribution-focused view of justice will become clear later on.

\textsuperscript{125} Someone might argue that there exists a fifth type of subject: ‘natural events’. Such a person might describe an earthquake that either kills people or damages their property as, itself, fundamentally unjust. Since I know of no writer who actually argues that justice is fundamentally a property of natural events I shall not discuss this idea further. It is worth noting, however, that distributivists in particular leave open the possibility of describing a natural event as derivatively unjust if its occurrence causes an injustice to arise in the distribution.
Rawlsians can still talk meaningfully about just or unjust distributions, and Nozickians can still talk meaningfully about just or unjust institutions, why do we care whether these possible subjects of the predicate ‘just’ are primary subjects or not? The short answer is that the choice of primary subject(s) makes a big difference to the way in which we theorise about justice. As we shall see, it not only affects the scope and content of our theory of justice, it also affects how directly action-guiding our theory of justice aims to be and the way in which judgements of justice and injustice influence our practical reasoning more generally.

VI. Institutions, distributions and actions

My main aim in the rest of this chapter is to consider various substantive arguments for and against adopting the institutional view of justice, which holds that the primary subjects of justice are institutions. Before discussing these arguments, however, it will be helpful, as a final preliminary step, to get a clearer idea of what exactly I mean when I talk about an institution, an action, and a distribution. I shall not discuss the virtue-ethicist’s view, according to which the primary subjects of justice are individuals. The reason for this is simply that, compared to the institutional, interactional, and distributive approaches, the virtue-based approach to justice represents a fairly radical departure from the way in which justice is typically conceived by contemporary (Anglophone) writers on the topic of distributive justice. Indeed, simply to discuss the virtue-based approach on its own terms, never mind compare and contrast it to the alternatives, would require the development and exposition of an entirely new theoretical framework, and I simply do not have the space to carry out such a task in sufficient detail. The discussion to follow is complicated enough as it stands, and I hope it is enough to note that it would be an interesting exercise to take the results of the present study and apply them in a comparative manner to the virtue-ethicist approach.

With this restriction on the scope of my enquiry duly noted I now turn to the three possible subjects of justice that remain. Beginning with institutions, then, we can follow Rawls in defining an institution as a ‘public system of rules which defines offices and positions with their rights and duties, powers and immunities, and the like. These rules specify certain forms of action as permissible, others as forbidden; and they provide for certain penalties and defences, and so on, when violations occur’. Furthermore, ‘an institution exists at a certain time and place when the actions specified by it are regularly carried out in accordance with a public understanding that the system of rules defining the institution is to be followed’. It is important to stress that institutions in the Rawlsian sense do not possess agency. To think that they do is to mistakenly confuse them with what is actually the more common meaning of the word institution, namely, collective bodies that do display purposeful agency, such as the various organisations, corporations, and associations that constitute the civil and political spheres. Pogge gives the non-political example of an institution of higher learning, but various types of government ‘institutions’ would also fit into this category. Clearly, the only reason why many of these kinds of ‘institutional-agents’ exist is in order to coordinate and/or enforce the practices constitutive of the ‘institutional-rules’ that form the focus of institutionalist justice, but one should not confuse this relationship of facilitation for one of identity.

Institutions as ‘public systems of rules’ are clearly distinct from actions. Of course, actions are often influenced by institutions; as Rawls says, when considering the design of an institutional structure ‘one must, of course, examine the schemes and tactics it allows and the forms of behaviour which it tends to encourage’. But I take it to be self-evident that actions – whether the actions of individuals or groups – can be carried out in the absence of institutions. There has inevitably been a great deal of philosophical debate over the precise definition of an action, but its finer details need not concern us here. It will suffice for our present purposes if we take an action to refer

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128 Pogge, Realizing Rawls, p.21.
129 Rawls, A Theory of Justice, p.49.
to any ‘event’ directly caused by individual or collective human behaviour that brings about a state of affairs for which the agent(s) in question can be held ‘outcome responsible’.

Finally, I shall take distributions to refer to particular allocations of justice-relevant goods measurable (in principle) at any point in time or over a specified period of time. Talk of the ‘allocation’ of goods should not be taken to imply that the shape of any particular distribution can be traced back to purposeful agency (although in many cases this will provide at least a partial explanation). And not all goods (or bads) are ‘justice-relevant’ (relevant for the purposes of determining the justice or injustice of distributions). The important point is that goods which are justice-relevant do not depend for their relevance on the core idea of ‘a distribution’ (rather, their relevance will be decided by the content of the particular conception of justice in hand).

VII. Rejecting the institutional view

With a clearer idea of the concepts underlying the three possible subjects of justice in hand, I now turn my attention to the arguments for and against the institutional view of justice, and thus for taking institutions as the primary subjects of justice. I shall argue that the institutional view of justice is mistaken because institutions are not primary subjects of justice. Institutions are certainly relevant to justice, but we can only make sense of this if we think of them as derivative subjects. My aim in this

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130 According to Hillel Steiner, ‘all actions are events. As such, they consist in the occupation of a set of contiguous temporal locations and (sometimes) a set of contiguous spatial locations by a set of physical objects’. Steiner, An Essay on Rights, p.35.

131 The notion of ‘outcome responsibility’ is due to Miller, National Responsibility and Global Justice, pp.81-97. According to Miller, an agent is outcome responsible for a state of affairs when there is a ‘foreseeable connection between [her] action and the result’, and the gains or losses experienced either by the agent herself or other parties as a result of her action can be credited or debited to the agent, (pp.87-8). ‘Crediting’ gains or ‘debiting’ losses to an agent does not imply the attribution of moral praise or blame, since there are many actions that agents purposefully do which it does not make sense to hold them morally responsible for. Miller gives the examples of running a record-breaking race, producing an artistic masterpiece, or making a poor attempt to grow some crops, (pp.89-90).

section is to defend this claim by showing that the main arguments in favour of taking institutions as the primary subject of justice are flawed.

I begin with two arguments that are often taken to be the main supporting arguments in favour of taking institutions as the primary subject of justice (in my sense of ‘primary subject’). Because both arguments were originally put forward by Rawls, he is often erroneously interpreted as an institutionalist in my sense of the term. And this mistake is encouraged by Rawls’s famous claim that ‘the primary subject of justice is the basic structure of society’. However, Rawls’s sense of ‘primary subject’ is different to the one I am employing here. And, indeed, Rawls explicitly rejects the idea that institutions are the primary subject of justice in my sense of the phrase. Nevertheless, it is instructive to see what is wrong with the two arguments when they are interpreted in the way not intended by Rawls, that is, as arguments in support of the conclusion that institutions are the primary subject of justice in my sense of the term.

The first argument Rawls gives for why we should focus primarily on the justice of institutions is the need to maintain what he calls ‘background justice’. Background justice refers to the underlying conditions of equality which are necessary to guarantee that agreements reached between individuals are genuinely free and fair, conditions which, in a large, complex society it would be impossible to maintain even if everyone was trying their best to keep it that way. It seems clear that the primacy of institutions is being justified here on instrumental grounds; we should (for practical reasons) set them up in order to help us do something that we should (for moral reasons) be doing anyway. The implication is that, in a smaller, less complex society, or in a society populated by beings identical to humans in every way except for their improved ability to work out the consequences of their actions, justice would be achievable without institutions. Indeed, if we take seriously Rawls’s definition of background justice as the

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133 The basic structure of society refers to ‘the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation’, Rawls, *A Theory of Justice*, p.6.

conditions necessary to guarantee that agreements reached between people are free and fair, then it would appear that what justice is actually concerned with at a fundamental level is that the agreements that people reach between themselves are free and fair. In other words, the conditions of ‘background justice’ that institutions maintain are important because they facilitate just transactions between individuals. Judgements about the justice or injustice of the basic institutional structure of a society therefore depend on, indeed are derived from, the more fundamental question of the justice of the transactions that occur between individuals in that society. Rawls’s appeal to background justice suggests an underlying interactional approach, rather than an institutional approach, to justice.

The second argument Rawls offers for taking institutions as the primary subject of justice refers to the profound and pervasive effects they have on those who are subject to them. Rawls points out that institutions not only affect the kind of persons we are but also the kind of persons we want to be. The institutional contours of the basic structure of society determine how existing wants are satisfied and contribute to fashioning desires and aspirations in the future; indeed they shape the societal culture itself and hence the individual conceptions of the good encouraged and made possible by this culture, and they even affect people’s realisation of their natural abilities: ‘not only our final ends and hopes for ourselves but also our realised abilities and talents reflect, to a large degree, our personal history, opportunities, and social position’. While much of this is no doubt true, the problem is that it is hard to see what these ideas add to the previous argument from background justice in support of the conclusion that institutions are the primary subject of justice. According to the background justice argument, the profound and pervasive effects that institutions have is precisely why we need them. Rawls is certainly right to stress how important it therefore is to ensure that institutions do their job properly and do not have any further unwanted effects. But the fact that this warning is being given in the first place suggests

that we already know what the ‘proper’ job of institutions is, namely, to ensure that agreements reached between people are free and fair.

When Rawls’s arguments are taken as arguments in support of ‘institutionalism’ in my sense of the term, they are clearly flawed. And this fact alone should be enough to demonstrate that Rawls wasn’t trying to defend institutionalism in this sense. In fact, Rawls himself was explicit that he was only concerned with what he called the ‘special problem’ of justice: the justice of the basic structure of a well-ordered society. Under the relevant assumptions, the existence of the basic structure is a given – there is no question of any ‘pre-institutional’ situation – and it seems perfectly reasonable to focus one’s theory of distributive justice on the way this basic structure is designed. There can be no doubt, therefore, that Rawls was not attempting to defend institutionalism as a general approach to justice.

In order to find someone who does try to defend institutionalism as a general approach to justice, we have to turn to the work of Thomas Pogge. Pogge has argued that if institutionalism is to have any hope of retaining its attractiveness as an approach to the general problem of distributive justice (the problem of how goods are distributed between people in contexts including, but not restricted to, self-sufficient nation-states), we need a more expansive understanding of ‘institutions’ that covers more than just the major social institutions of a well-ordered society. Pogge himself proposes that we hold on to the core definition of an institution as a public system of rules that I pointed to above, but expand this to include not only those public rules that regulate the core elements of complex societies, but any such rules that regulate in a publicly recognised and systematic way interaction between individuals (or groups). This wider sense of ‘institution’ corresponds to a broadening of Rawls’s notion of the basic structure of a social system to include all and any publicly recognised terms of interaction that affect the distribution of benefits and burdens among the members of any kind of social system. Understood in this general way, says Pogge, ‘Rawls’s criterion of justice is applicable, in the limit, to the design of ground rules regulating the cooperation of two

137 Pogge’s phrase ‘terms of social interaction’ is a fitting description for this interpretation of institutions, Pogge, Realizing Rawls, p.22.
persons stranded together on an isolated island or to the assessment of ground rules that may have emerged between them’.  

In making his case for why we should support (the wide interpretation of) the institutionalist approach to justice, Pogge’s first move is, effectively, to recapitulate the two Rawlsian arguments we have just dismissed. However, he then goes on to present a third argument which adds something new to the justification for institutionalism. ‘Institutional reform’ says Pogge, ‘is [not] being recommended for its effectiveness alone’. It is not ‘merely a different (and better) way of doing something moral by making the world a little better’. Someone who employs this instrumental argument as the sole justification for institutional reform is, according to Pogge, making a mistake – and potentially a very costly mistake – about the nature of justice itself. There is an inherent danger, argues Pogge, in conceiving of the impartial value of justice as an especially important goal, perhaps an overriding goal, to which all other practical reasoning must be subordinated. The danger is that our subsequent duties of justice, both in terms of their number and their stringency, have the potential to spiral out of control, as anything we choose to do on prudential grounds for ourselves or those close to us becomes vulnerable to criticism on grounds of justice. Pogge never says explicitly why he thinks this is such a bad thing, but presumably he thinks that in such a situation the special urgency of duties of justice combined with an expansive interpretation of their scope would leave little room to pursue not only our own projects but also other moral values.

Now, it might be responded that whether or not our duties of justice do in fact have the kind of expansive scope of application that Pogge worries about depends on how demanding a conception of the content of justice we happen to hold in the first place. But this is precisely the kind of contingent response that Pogge is keen to rule out. A much more satisfying alternative, implies Pogge, is to see the value of justice as reflecting a special kind of moral responsibility: the shared responsibility of participants

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138 Pogge, Realizing Rawls, p.25.
139 Pogge, Realizing Rawls, pp.33-4.
140 Pogge, Realizing Rawls, p.34.
in an institutional scheme to avoid wronging one another through the political, legal, economic, and social contours of that scheme.\textsuperscript{141} Justice is an ideal that grounds each and every person’s duty \textit{not} to support the continued existence of unjustifiable institutions. Further support for this claim can be drawn from the fact that this general \textit{negative} duty coheres with ‘Anglo-American moral and legal tradition, in which it is often denied that persons have duties to protect and aid other persons in distress: it’s a good thing to help those who might otherwise drown or starve or be murdered, but it isn’t very wrong not to, especially if the trouble, expense, or risks involved aren’t negligible.\textsuperscript{142}

We can now see that Pogge’s third argument for institutionalism really consists of two separate arguments. The first argument is that for the sake of our ability to pursue our own projects, as well as other moral values, the concept of justice should be limited in application to institutions (and the derivative duty not to support certain kinds of institutions). The second argument is that this institutional restriction adheres to moral and legal tradition. I take it that this second argument is unconvincing. Since ‘moral and legal tradition’ up to now may simply have been mistaken, it is not clear (at least, not without much more detailed argument) why we should accord it much weight when deciding how to conceptualise justice. The first argument is not quite as unconvincing, though it is still not particularly strong. The fact that the correct conception of justice might not undermine our ability to pursue other values after all means that Pogge’s concern about the demands of justice spiralling out of control may turn out to be completely unfounded. Still, the fact that the impartial demands of justice may encroach unacceptably on our ability to pursue our own projects as well as other moral values is a valid concern. The relevant question is whether Pogge’s institutional view is the correct response to this concern. I do not think it is, and in later chapters I develop what I believe to be a superior alternative. In the rest of this section, however, rather than argue directly against Pogge’s argument, I shall present some independent reasons for rejecting the institutional view.

\textsuperscript{141} Pogge, \textit{Realizing Rawls}, p.34.
\textsuperscript{142} Pogge, \textit{Realizing Rawls}, p.34.
My plan is to discuss two examples which highlight the counterintuitive implications of Pogge’s institutional view. Before introducing my first example, it will be helpful to recall two key aspects of Pogge’s position. First, although Pogge believes that justice applies primarily to institutions, he is perfectly happy to say that actions can be just or unjust. The point is that such actions are only *derivatively* just or unjust, since our judgements about the justice or injustice of actions necessarily refers to the justice or injustice of the institutional scheme to which our actions are related: we act justly if we support just institutions or refuse to support unjust institutions, we act unjustly if we support unjust institutions or fail to support just institutions. Second, Pogge believes that institutionalist criteria of justice apply not only to major social institutions, but that they are applicable, in the limit, to the design of ground rules regulating the cooperation of two persons stranded together on an isolated island.

Now for my first example. Imagine that two people, A and B, who are identical in all relevant respects, are washed up on an isolated island which happens to be blessed with a good supply, though by no means a super-abundance, of resources. There are enough resources, let us say, for each individual to live comfortably for the rest of their lives, provided they are shared more or less equally between the two throughout this time. What does justice demand in this situation? Since there are no institutional ground rules in place to regulate the castaways’ cooperation on the island it is not clear, on Pogge’s view, what justice *could* demand in this situation. If A collects up the majority of the available resources and places them out of B’s reach he clearly acts immorally, but he is not violating any duty of justice. Justice refers to our negative duty not to support unjust institutions, and one cannot support or refuse to support institutions that do not exist.

My claim is that this conclusion is counterintuitive because A clearly is acting unjustly in not sharing the resources equally with B. If I am right, then Pogge must

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143 Sometimes our fundamental negative duty of justice may give rise to derivative positive duties of justice. As Pogge points out, ‘the negative duty not to abuse just practices may demand positive action, as when one must act to keep a promise or contract one has made’, Pogge, *Realizing Rawls*, p.32. For the worry that what Pogge’s view actually implies is that people have positive duties to set up institutions when they don’t already exist, see, M. Reitberger, ‘Poverty, negative duties and the global institutional order’, *Politics, Philosophy and Economics*, 7 (4) (2008), 379-402, p.388.
somehow explain this injustice. But in trying to do so he faces a dilemma. On one hand, Pogge might claim that A simply had a direct duty to share the resources equally. But this obviously risks undermining his claim that institutions are the sole primary subject of justice; if what justice demands is an equal distribution in the island scenario, it doesn’t seem to matter whether this is brought about by institutions or not. On the other hand, Pogge might try to maintain the institutional claim by insisting that what A is doing when he collects up the majority of the resources is precisely to set up an unjust institution of unjustified inequality between A and B, thereby violating his negative duty not to support unjust institutions. This response seems more promising for Pogge, but the problem now is that the definition of an ‘institution’ is being stretched so far it is beginning to become indistinguishable from the definition of an action.

To see this, consider what Pogge would have to say if, immediately after A collects up the resources and places them where he thinks they are out of B’s reach, B works out how to get hold of the resources and himself collects them up and places them where he thinks they are out of A’s reach, and then immediately afterwards A works out how to get hold of the resources again, and so on, etc. Employing the new ‘stretched’ definition of an institution, Pogge would have to describe this situation as one in which A and B alternate in quick succession at being the one to set up an unjust institution. This description of the situation is more than merely awkward; the definition of ‘institution’ that is now being employed is barely recognisable. More to the point, perhaps, the new definition no longer appears to fit with Pogge’s original view. Recall Pogge’s claim (quoted above) that ‘Rawls’s criterion of justice is applicable, in the limit, to the design of ground rules regulating the cooperation of two persons stranded together on an isolated island or to the assessment of ground rules that may have emerged between them’. The defining characteristic of the situation described above is the conspicuous absence of any ground rules whatsoever. There is simply no way of describing the series of smash and grab raids perpetrated by A and B as unjust in institutional terms.
The second example I shall consider again shows how institutionalism fails to fully account for our justice-related intuitions and further emphasises the point made at the end of the last paragraph. Pogge says that in a society in which slaveholding has been institutionalised ‘we cannot combat [the injustice caused by the institution of slavery] by stealing and protecting slaves or through attempts to reform slaveholders (perhaps by urging them to release their slaves or at least give them better treatment).’\textsuperscript{144} The reason, according to Pogge’s interpretation of the institutionalist approach, is that such ‘action would not make the structure of the slaveholding society any more just (even [an] escapee is still legally unfree, may be recaptured, etc.).’\textsuperscript{145} Now, Pogge may or may not be right about this. In his favour, it is certainly true that an isolated attempt to help a slave to escape his owner’s clutches does not in itself eradicate the institutional practice of slavery in the society in question. On the other hand, though, it might be the case that such an isolated emancipatory act has the effect of marginally increasing the power of those who oppose slavery while diminishing the power of those who favour it, thus making it more likely that structural change will occur in the future. In any case, regardless of whether Pogge is right or wrong with regards to the justice of the institutional structure, it seems much harder to deny that uncoordinated but effective acts of emancipation do not make the state of affairs in the world as a whole slightly more just. Imagine that I am not the only free citizen who, disgusted at the thought of living in a society that refuses to formally ban slavery, decides to unilaterally assist a slave in escaping from his master. Let us say that, of the ten thousand slaves being kept under lock and key throughout our society, I and my fellow emancipators work successfully to effectively (if not formally) free nine thousand of them. At all times the formal (i.e. legal) institution of slavery remains in place, (but perhaps, let us say, informal and illegal emancipation is made easier by lax enforcement). Is the world in which the nine thousand are effectively free still no more just? Pogge would have to say no. The only way that this massive increase in effective freedom would count as an increase in the

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  \item[144] Pogge, \textit{Realizing Rawls}, p.27.
  \item[145] Pogge, \textit{Realizing Rawls}, p.41.
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justice of the world for Pogge is if the formal institution of slavery was also abolished. This seems unnecessarily and implausibly restrictive.

Now imagine a slight variation on this example. Imagine that the formal institution of slavery is abolished but the informal practice of slavery continues, not because the slaveholders are coercing their slaves into staying, let’s say, but because of some kind of collective false consciousness among former slaves, carried over from the abuse they suffered in the past, that makes them think that they are better off as slaves – a false consciousness the former slaveholders are only too happy to take advantage of. This is clearly a very strange situation, and perhaps intuition (and language) fails us at this point. But I’m tempted to say that this informal slave-holding society is less just than one in which no one stands in any slave-like relationship with any other person, even though in both societies there is no formal institution of slavery.

Perhaps Pogge might claim that, in either situation (either the widespread informal emancipatory society or the widespread informal slave-holding society) what had occurred was the creation of a new institution. He might claim, in other words, that what really counted as the institution was what people effectively did, not what was called for by the law. Now, Pogge’s own definition of an institution stipulated that it must be publicly acknowledged, so one obvious rejoinder to this imagined Poggean response is to deny that the actions of the individual emancipators are public knowledge. But even if the force of this rejoinder can be avoided, the imagined response simply shows how artificial the purported distinction between institutions and individual actions ultimately is. It seems churlish to deny that the uncoordinated but genuinely freedom-enhancing actions of a small number of people bring about no gain in justice but that, once the number of instances of these actions passes a certain society-wide threshold, then there is an increase in justice.

The failure of Pogge’s defence of the institutional view strongly suggests that such an approach to defining the concept of justice (according to which institutions are the only primary subject of justice) is mistaken. It also, I believe, gives us a reason to think that institutions are never correctly thought of as primary subjects of justice – even
as part of a mixed conception according to which actions and/or distribution are also considered to be primary subjects of justice – although clearly what I have said so far is insufficient to support this stronger claim. I know of no general argument which proves that institutions can never be thought of as primary subjects of justice. The challenge is for those who think institutions can be genuinely classed as a primary subject of justice to support this claim. If I am right, however, and institutions are only a derivative subject of justice, then we are left with actions and distributions as possible primary subjects.

VIII. Conclusion

I began this chapter by introducing four different interpretations of the concept of distributive justice: the currency view; the institutional view; the coercion view; and the fairness view. I then argued that the currency view should be rejected on the grounds that theories of justice that purport to be versions of the currency view either presuppose or entail one of the three remaining views (or some combination of these views).

Next I moved on to discuss the institutional view. I began by introducing the distinction between primary and derivative subjects of justice. Primary subjects of justice are things which are just or unjust in themselves, derivative subjects of justice are things which are just or unjust only in virtue of their relation to some other (primary or derivative) subject whose justness has already been determined. I explained that the defining feature of institutionalism is its claim that institutions are the only primary subject of justice. After considering a number of different arguments for this claim, and after testing it by applying it to a number of different examples, I came to the conclusion that the claim should be rejected. If institutions are not the only primary subject of justice it means that either actions, or distributions, or perhaps both actions and distributions, must be primary subjects of justice.\[146]

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\[146\] Assuming, of course, that the virtue ethicist position – which takes persons to be the primary subject of justice – is not the only correct position. I explained my reasons for making this assumption in the first paragraph of section III.
In the next chapter I consider the two interpretations of justice that I have not discussed in this chapter: the coercion view and the fairness view. The coercion view takes actions to be the primary subject of justice. The fairness view takes distributions to be the primary subject of justice. If the arguments in this chapter are correct we know that at least one of these views is right.
I. Introduction

In the previous chapter I distinguished four alternative definitions of the concept of distributive justice: the currency view, the institutional view, the justified-coercion view, and the idea-of-fairness view. I then argued that the currency view and the institutional view fail to provide a particularly compelling interpretation of justice and should therefore be rejected. In this chapter I turn my attention to the two remaining views. I argue that although both the coercion view and the fairness view pick out important aspects of the concept of justice, neither view, when taken in its ‘pure’ form (i.e. on its own), provides a complete account of justice. Since the coercion view and the fairness view together capture what is important about the concept of justice the obvious thing to do is to somehow try and combine the two views. I consider one attempt to do this by adapting the coercion view so as to incorporate the important aspects of the fairness view without incorporating the latter view in its wholesale form. I argue that this attempt to maintain allegiance to the ‘pure’ coercion view while incorporating the insights of the fairness view fails to produce a compelling interpretation of justice. The only way to generate a plausible interpretation of justice that reflects the insights of the coercion and fairness views is to incorporate both views in their wholesale form within a single conceptual framework. The result – dual-component model of distributive justice – is explained and developed in chapter 6.

II. The coercion-justifying view

The coercion view of justice is clearly visible in the work of a large number of influential theorists, including Rawls, Nagel, and Miller. What these theorists are
typically looking for is a principle or set of principles which tells us when and why we can (and when and why we can’t) justifiably coerce people into acting or not acting in certain ways. Since the state is often held to be the primary – and sometimes the only – agent with the capability or the legitimacy or the authority to exercise justified coercion, it is unsurprising that proponents of the coercion view typically focus on formulating and justifying principles of justice that apply to state policy (e.g. by guiding the writing of the constitution and the formulation of specific laws) rather than individual conduct. As I argued in the previous chapter, however, there is no good reason for restricting the application of principles of justice to institutions, and we should be careful not to let the de facto focus on the institutional structures of states, which is a natural consequence of the coercion view’s interest in loci of power, blind us to the fact that questions of justice – questions about the justified exercise of coercion – can be raised just as easily and with just as much relevance about coercive individual conduct as they can about the design of coercive institutions.

In order to explain and elaborate the coercion view I shall use the rest of this section to make four key points. First, it is important to distinguish between two different ways in which proponents of the coercion view might go about formulating principles of justified coercion. According to the first, consequentialist version of the coercion view, the aim is to work out a principle or set of principles which tell us when and why it is justifiable to coerce people in order to produce or bring about certain desirable consequences. The kinds of desirable consequences a theorist who takes the consequentialist approach is likely to be concerned to bring about are well-known, and include things such as individual well-being, political stability, the efficient allocation of goods, and democracy. Now if people could be trusted to bring these consequences about by themselves then there would be no need to formulate principles which specify when coercion is and is not justified in order to promote them. Under such circumstances a theory of justice of this sort would be unnecessary. But of course, people can’t usually be trusted to bring these consequences about by themselves. The question view entails, Miller, National Responsibility and Global Justice, pp.277-8.
therefore arises what we can justifiably do in order to force people into doing what is necessary, and this is the question to which the principles of justice formulated by proponents of the consequentialist version of the coercion view are the answer.

In contrast, the aim according to the second, *deontological* version of the coercion view, is to work out a principle or set of principles which tells us when and why it is justifiable to coerce people in ways that respect their distinctive moral status. People are not tools to be used in order to achieve valuable ends. Nor are they simply passive beings waiting to have good things done to them or given to them. People are purposeful beings. They lead their own lives, they make choices, form plans, and take responsibility for their mistakes. Now, partly in spite of these qualities and partly because of them, people have the ability and the tendency, whether acting individually or through a mediating body such as the state, to interfere with one another in numerous ways. As moral beings we want to ensure that these various ways of interfering with one another are consistent with the respect that each person is due. Thus it becomes a pressing and important question what limits we set on this potential for interference. The principles that are formulated in response to this question are the principles of justice according to the deontological version of the coercion view. Their role is to specify the point at which X's failure to treat Y in a way that is consistent with respecting Y's distinctive moral status leaves X vulnerable to justified coercive interference (either from Y himself, or from a third party, Z). Typically, Z is the state, and X and Y are citizens of that state. In this case the role of the principle(s) of justice is to specify the point at which the state is justified in exercising coercion over X in order to ensure that he treats Y with the respect that he is due. At other times, though, the relevant coercive power may not be a state but one of a variety of non-state actors.

Having explained what distinguishes the consequentialist version from the deontological version of the coercion view, it is important to note that most actual conceptions of the coercion view adopt a mixed approach. That is, according to most (and the most plausible) conceptions of the coercion view, the role of the principles of justice is to specify (a) when we are justified in coercing people in order to promote
desirable consequences and the point at which people become vulnerable to coercive interference for failing to treat others with the respect that they deserve. The best (and best-known) example of such a ‘mixed’ approach is of course Rawls’s theory of ‘Justice as Fairness’. When Rawls’s theory is interpreted as a conception of the coercion view it is easy to see that it contains both consequentialist and deontological aspects. On the one hand the state is entitled, indeed required, to employ the coercive power and authority of the law in order to facilitate the redistribution of resources so that the worst-off group in the society is as well off as possible. On the other hand, such justified coercive interference is limited by the deontological requirement to only coercively interfere with people in ways that are consistent with respecting their distinctive moral status.

The second point I want to raise about the coercion view relates to the distinction I introduced in the previous chapter between institutionalist, interactionalist, and distributivist approaches to justice. In terms of this distinction the coercion view – in either its consequentialist, deontological, or mixed versions – is an example of an interactionalist approach. This means that the principles which form the content of the coercion view are principles that refer directly to the justice or injustice of actions. Distributions, on this view, may of course be described as ‘derivatively’ just or unjust, depending on whether or not they have arisen from just or unjust actions. Similarly, institutions may be described as ‘derivatively’ just or unjust depending on whether or not they permit/prohibit or encourage/discourage just or unjust actions. The significance of the fact that the coercion view of justice is an example of an interactionalist approach to justice will become clear later when I discuss the possibility of combining the coercion view and the fairness view of justice together within a single conceptual framework.

The third point I want to mention about the coercion view of justice concerns an issue raised by John Stuart Mill. Mill pointed out that there is a problem with any

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148 Though it would require too much work to explain the point in detail, it is worth noting that the way I describe Rawls’s theory here does not reflect the same way of understanding Rawls’s theory as that reflected by Pogge’s labelling of Justice as Fairness as a ‘semi-consequentialist’ theory of justice. See, Pogge, Realizing Rawls, p.47.
attempt to distinguish demands of justice from other moral demands by pointing to the justifiability of enforcing – primarily through the threat of punishment for failure to comply – the former but not the latter:

For the truth is, that the idea of penal sanction, which is the essence of law, enters not only into the conception of injustice, but into that of any kind of wrong. We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for doing it; if not by law, by the opinion of his fellow-creatures; if not by opinion, by the reproaches of his own conscience.\footnote{Mill, \textit{Utilitarianism}, p.72.}

Mill is certainly right to emphasise that if the notion of a ‘moral wrong’ is to mean anything at all it must be that some kind of penalty attaches to it. Mill is also right to say that the relevant penalties can take a number of different forms, presumably ranging from punishments of torture and death, down through custodial-sentences and fines, to displays of social disapprobation and, finally, self-censure. In one sense these various forms of influence which people exert over one another (and themselves) through the apparatus of the state or via less centralised and official methods can all be seen as points on the same continuum, differing only in the degree of pain/discomfort/inconvenience which attaches to them. On the other hand, the fact that the concept of coercion not only exists but is widely employed by political theorists in various contexts is powerful evidence that there is not just a difference of degree but a difference of kind between some of these types of influence. Although a precise definition of coercion is notoriously difficult to provide,\footnote{For a classic early treatment of some of these difficulties, see, R. Nozick, ‘Coercion’, in I. Carter, M. H. Kramer and H. Steiner (eds.), \textit{Freedom: A Philosophical Anthology}, (Oxford: Blackwell, 2007), 261-278.} the vast majority of cases are such that most people can agree whether or not the exercise of coercion is at issue. In any case, since any attempt on my part to deal with hard cases here would not only take us a long way off topic but would no doubt leave many participants in this complex and ongoing debate unconvinced, I shall not try to offer a precise definition of coercion here. As a rough guide what we can say is this: a person or group of persons coerces
another person or group of persons when the coercer(s) succeeds in making the coercee(s) act otherwise to how he or they would have acted in the absence of coercion by carrying out or threatening to carry out a course of action that causes or will cause harm to someone’s interests.\textsuperscript{151} Tightening up this rough definition would obviously require discussion of a range of background issues, as well as more detailed explanations of what is meant by the notion of ‘harm’ and by the notion of someone’s ‘interests’. Having explained why I shall not be attempting to tighten up the definition in these ways, however, I trust that the rough version I have provided is enough for our current purposes.

The fourth and final point I need to mention concerns what we might call the logical priority of the concept of coercion over the concept of justice. According to the coercion view, we know when a moral requirement is a requirement of justice when we know that we are justified in enforcing that requirement. This is what it means to say that coercion is ‘logically prior’ to justice. If justice was logically prior to coercion, then we would have to know when a requirement was a requirement of justice \textit{in order to} know whether its coercive enforcement was justified; but of course, in that case, justice would have to be defined independently of any link with coercion, and the question whether we are justified in coercing people into fulfilling these independently defined requirements of justice would then be a separate question (this is, in fact, an accurate description of the ideal-of-fairness view of justice which I discuss below).

\textbf{III. The link between justice and fairness}

The coercion view undoubtedly captures an important aspect of the concept of justice. Part of what it means to say something is unjust is that it is somehow worse, more wrong, than if it was simply immoral. It is plausible to suggest, moreover, that what this extra degree of wrongness entails in practice is that the appropriate response to the act or omission in question is one of active coercion rather than one of ‘mere’ disapproval, opprobrium, or contempt. However, having explained in greater detail

\textsuperscript{151} The likely recipient of the ‘serious harm’ is ‘someone’ rather than the coercee in particular, because a coercer can coerce a coercee without necessarily threatening the coercee himself (perhaps the coercer threatens to kill a stranger unless the coercee does X).
what the coercion view of justice entails and why it should be taken seriously, I want to
argue that it is a mistake to see the coercion view as representing the whole story about
justice.

My argument is based on the claim that the coercion view of justice offers an
incomplete interpretation of the concept, because it fails to adequately reflect the close
conceptual link between justice and fairness. In order to defend this claim I shall consider
two different ways in which concerns of fairness might be incorporated into the
coercion view of justice. The problem with both approaches is that it is possible to
criticise as unfair the distributions that both approaches endorse as fully just. This is
unacceptable because, as I shall argue in the course of discussing the two views, there is
a strong intuitive pull to an idea which I refer to as the ‘fairness constraint’ on
acceptable conceptions of justice:

The fairness constraint: A distribution is not fully just unless it is also fair.

The two different versions of the coercion view that I shall consider can be
distinguished according to two features: First, by the role that each approach allocates to
the concept of fairness; Second, by the interpretation that each approach takes of the
concept of fairness itself. I shall label the two versions of the coercion view the ‘Basic
Distributive Fairness Approach’ and the ‘Constructivist Fairness Approach’.

The Basic Distributive Fairness Approach

The first version of the coercion view that I shall consider interprets fairness as
an ideal and substantive property of distributions that can be specified prior to and
independently of any considerations about the moral permissibility, practical feasibility,
or all-things-considered desirability of realising it. I call this kind of fairness ‘basic
distributive fairness’.

The concept of basic distributive fairness is perhaps best explained by analogy. Imagine
we have to decide how to fairly divide up a cake (which is yet to be made)
between several people. Before we know how big the cake is, and before we know how accurately we will be able to divide it up, there are likely to be several different suggestions about what a fair division might look like. The most obvious, perhaps, is that a fair division is an equal division. But there may also be alternative proposals, say, to distribute the cake in proportion to the popularity of each person within the group, or to distribute the cake so that as few people as possible don’t need to eat anything else for the rest of the day, and so on. Now, even if everyone agrees on a particular proposal, there is no guarantee that this way of dividing the cake will actually be realised. It may turn out, for instance, that when the cake is finally made it is simply not big enough to satisfy some of the proposed fair divisions (e.g. the last of the three proposals just mentioned). Alternatively, it may turn out that the cake is made in such a way that there is no way of dividing it (cutting it) in a way that satisfies some of the proposed divisions (or at least no way of doing so without spoiling the cake itself). Finally, when the person who said he was going to make the cake realises how the cake will be divided once it is made (and we can imagine that he is the only member of the group capable of making one), it is conceivable that he might decide that it is not worth bothering to make it in the first place. (We can imagine in this final scenario that the would-be cake-maker agrees with everyone else what a fair division of cake would be if someone were to make one, but that he personally is only willing to make a cake if he ends up with, say, half of it). The point of these various scenarios is that, although there may be all sorts of reasons why a fair division of cake is not possible, the fact that such a division is not possible does not impugn the ideal of fair division itself; a fair division does not cease to be a fair division just because it is not all-thing-considered possible or desirable or reasonable to (attempt to) realise it.

The concept of ‘basic distributive fairness’ is analogous to the notion of a fair division of cake. Since what I am particularly interested in is the precise role that basic distributive fairness plays in a typical ‘mixed’ (i.e. part-consequentialist, part-deontological) version of the coercion view, I shall now explain how a proponent of this view might go about incorporating the concept. The theorist’s first job is to assign
some content to the ideal of basic distributive fairness. It might be argued, for instance, that basic distributive fairness is achieved when deeply significant and universally valued goods (and ‘bads’) are distributed according to some version of the principle of desert, or some version of the principle of equality, or some version of the principle of need, etc.\(^ {152}\) Once the ideal of basic distributive fairness has some determinate content, a value can then be assigned to realising (or getting closer to realising) the ideal. Then, in order to work out what justice requires or permits (i.e. the content of the principles of justified coercion), the proponent of the mixed coercion view has two tasks (or only one task if he favours either a pure-consequentialist or pure-deontological version of the coercion view).

First, assuming a consequentialist perspective, he must weigh the value of realising (or getting closer to realising) the ideal of basic distributive fairness against the cost of such an attempt in terms of the other valuable consequences that might otherwise have been realised. If it turns out that any attempt to realise the ideal will result in huge losses to aggregate well-being or massive political instability or some other highly undesirable consequence, then it may well be that the principles of justified coercion that result from this decision will ultimately reflect very little concern for basic distributive fairness.

The second task that the proponent of the coercion view must carry out, this time assuming a deontological perspective, is to take the principles of justified coercion worked out in the previous consequentialist stage and determine whether or not, and if so how, acting according to these principles will entail interfering people in a way that fails to treat them with the necessary respect. If the original consequence-sensitive principles do not entail disrespectful interference, then there is no problem. If they do entail disrespectful interference, however, then side-constraints must be put in place which limit the exercise of coercion in ways necessary to ensure that such exercise is consistent with respecting people’s distinctive moral status (regardless of the consequences).

\(^{152}\) For further discussion of the idea that the principle of desert and the principle of need might form the content of ‘ideal justice’, see, Miller, _Social Justice_, pp.24-31.
Ultimately, after following this procedure, what the theorist ends up with is a principle or set of principles of justified coercion which supposedly reflects a satisfactory degree of sensitivity to considerations of fairness. The procedure itself represents a fairly common method for incorporating considerations of fairness into the coercion view. Common though it may be, however, I believe it should be rejected as an approach to working out the content of a conception of justice because it clearly violates the fairness constraint (which, to recall, says that a fully just distribution must always be a fair distribution). In order to see more clearly how the Basic Distributive Fairness Approach violates the fairness constraint, consider the following example.

Imagine for the sake of argument that a proponent of the coercion view agrees that under conditions of basic distributive fairness each person in our society would get the same standard of education. Imagine further that, as a matter fact, some people in our society get a much better education than others even though those who are advantaged by this inequality have done nothing to deserve it. Imagine further that the proponent of the coercion view also thinks that for some reason we are not justified in forcing the better-off members of the society in question to do the necessary jobs or hand over to the state the necessary resources in order to remedy this unfairness by providing every child with an equally good education. Finally, imagine that, were the better-off members of the society to \textit{voluntarily} do the necessary jobs or hand over the necessary resources to provide every child with an equally good education, this goal would in fact be achievable. Now, let’s say that the better-off members of the society \textit{do} voluntarily decide to hand over the necessary resources, thereby eradicating the unfairness in educational opportunity that our interlocutor himself identified at the start. The question we need to ask is: Has the voluntary eradication of this unfairness resulted in an increase in justice? The proponent of the coercion view, who has so far agreed with the way the example has been set up, is committed to answering ‘no’ to this question. According to his interpretation of justice, the justness of a distribution is only affected when (a) people act or don’t act in ways in which they could justifiably be coerced to act or not act, or (b) people are coerced to act in ways in which they could
not justifiably be coerced to act. In our example people have chosen to distribute resources in a way in which they could not have been justifiably forced to distribute them. And while such voluntary action can affect the fairness of a distribution, it cannot, on the coercion view, affect its justness.

Strictly speaking, of course, there is nothing incoherent about this view of justice. There is no proof available which says that a situation in which people choose to eradicate unfair educational opportunities is more just than one in which they don’t. But I would argue that anyone who denies this – anyone who denies the truth of the fairness constraint – is using the concept of justice in a linguistically counter-intuitive way. If we agree that the distribution of educational opportunities is in one sense genuinely unfair, then what we agree on is that there is a sense in which some people have not got what they should have. Moreover, the thing that some-people-should-have-got-but-have-not-got is not something trivial like a slice of cake equal in size to that given to others at a party or a fair coin toss to decide who serves first in a game of tennis – these are plausibly described as cases of unfairness but not injustice. Instead, what we are talking about is the unfair distribution of a good that surely has what I described in the previous chapter as deep and perhaps fundamental importance for people’s lives. My claim is that when people who are in a position to remedy such unfairness freely choose to do so, there is a consequent gain in justice, even if we would not have been justified in coercing them to do so.

The failure of this attempt to explain the link between fairness and justice from within the coercion view, and thus abide by the fairness constraint, might tempt us to abandon the coercion view altogether. Before endorsing this conclusion however, we must consider a second attempt to explain the link between fairness and justice from within the coercion view.

The Constructivist Fairness Approach

Proponents of the Constructivist Fairness Approach are aware of the close conceptual link between justice and fairness, and of the intuitive pull of the fairness
constraint itself. In order to respond to this intuitive pull, however, proponents of this version of the coercion view no longer allocate a role to the concept of fairness as a substantive input to the decision-making process during which different values are weighed against each other and the principles of justified coercion are subsequently formulated. Instead, fairness on this second approach plays a procedural role as a regulative ideal governing the initial choice situation during which the principles of justified coercion are selected. It is the use of this special device of an initial choice situation which allegedly allows this second version of the coercion view to abide by the fairness constraint. In order to fully understand this approach it is vital to see that the new, procedural role assigned to fairness only makes sense when it is combined with a distinctive method of deducing the principles of justice themselves.

The method in question is known as ‘constructivism’. A constructivist conception of justice is defined by Brian Barry as a hypothetical instance of pure procedural justice which is constructed (i.e. set up and worked through) by a theorist. A constructivist conception of justice is thus defined by two characteristics: first, it is an example of pure procedural justice; second, the procedure in question is hypothetical. To elaborate these two conditions I quote Barry at length:

I should like to define a constructivist conception of justice in the following way. First… I want to keep the link with the notion of pure procedural justice by stipulating that there must be a theory to the effect that what comes out of a certain kind of situation is to count as just. “What comes out” might be a principle, a rule, or a particular outcome. Justice can be predicated of any of these, and the point is that we can derive its justice from its having emerged from the situation. A “situation” is specified by a description of the actors in it (including their knowledge and objectives) and the norms governing their pursuit of their objectives: what moves are to be legitimate. And the “emergence” is to be a particular kind of emergence, namely, the result of actors in the situation pursuing their given objectives within the given constraints…. The second requirement is that the constructing is to be done by a theorist and not by the people in the situation themselves. Suppose, in other words, that in some instance a situation of the kind described actually exists and the people in
it actually produce a result – a principle, rule, or outcome, as the case may be. Then pure procedural justice is satisfied but there is no construction.\footnote{Barry, Theories of Justice, p.266.}

Notice that it is not part of the definition of constructivism that the ‘situation’ in which the principles of justice are chosen is characterised by fairness. As Barry himself emphasises, ‘we should certainly not insist that the situation within which agreement defines the content of justice must itself pass some ethical test. Hobbes, to give the obvious example, would have denied vehemently that the justice of keeping covenants reflected any fairness in the situation giving rise to the agreement’.\footnote{Barry, Theories of Justice, p.268.} This means that while the principles of justified coercion that ‘emerge from the situation’ set up by the theorist will always, if respected by the people to whom they apply, produce a distribution that is \textit{just}, according to those principles, there is no guarantee that this distribution will also be \textit{fair}, according to anyone’s (even the theorist who set up the construction)’s principles. This in turn means that \textit{some} constructivist theories of justice will inevitably fall foul of the fairness constraint (i.e. the claim that a fully just distribution must also be a fair one).

Of course, the fact that some constructivist conceptions of the coercion view of justice inevitably violate the fairness constraint does not mean they all do. And in fact the hypothetical choice situation \textit{can} be constructed so as to satisfy some criterion of fairness. Indeed, this is precisely the reason why the constructivist conception of the coercion view is thought to be able to satisfy the fairness constraint.\footnote{It is also, of course, the reason why Rawls called his theory ‘Justice as Fairness’. See, Rawls, A Theory of Justice, p.11.} So, let us say that our coercion view theorist constructs the hypothetical choice situation so that it \textit{does} satisfy some criterion of fairness. In this case, the principles of justified coercion that are chosen by the parties in the hypothetical choice situation are not only supposedly guaranteed to define \textit{justice}, they will also supposedly guarantee that whatever state of affairs results from following them will be \textit{fair}. If this is correct, then the fairness constraint is satisfied.
But is the fairness constraint satisfied in the right way? The way I originally formulated it, the fairness constraint merely stated that a distribution is not fully just unless it also fair. But now there are two different notions of fairness floating around: first, the substantive notion of basic distributive fairness that played a role in the first coercion view; second, the procedural notion of constructivist fairness that played a role in the second coercion view. To which notion of fairness does the fairness constraint refer? To which notion of fairness should it refer?

Let’s consider the Constructivist Approach in more detail. We know that when the principle-selectors are deciding how we can justifiably coerce each other, they are doing so (we are now imagining) from a situation characterised by constructivist fairness. Now there are many different ways of achieving constructivist fairness – ranging from the Rawlsian method of restricting the information available to the principle-selectors to the Scanlonian method of imputing ‘reasonable’ motives to the principle-selectors – but these details need not concern us here.\(^{156}\) What we do need to be concerned with is the fact that, however the conditions of constructivist fairness are set up, the choices/decisions that the principle-selectors ultimately make are only likely to be acceptable to the theorist who is carrying out the construction if they are sensitive to certain considerations such as, for example, certain important individual freedoms (e.g. freedom of occupation). This is not a necessary truth about constructivism of course; there is no sense in which freedom of occupation and other important freedoms must be respected by any principles arrived at through the constructivist method. But as a contingent matter it is highly unlikely that any liberal theorist will be happy with the results of a construction that leave no room for important freedoms such as freedom of occupation. So, assuming that these important freedoms will be taken into account by the principle-selectors, it seems likely that the principles that are ultimately selected will leave open the possibility of people choosing to act in ways that result in a distribution

\(^{156}\) The classic statement of the ‘Rawlsian’ method is of course Rawls’s own in *A Theory of Justice*. The best application of the ‘Scanlonian’ method to theories of justice is presented in, B. Barry, *Justice as Impartiality*, (Oxford: OUP, 1995). Scanlon himself applies his own method to a domain of morality that includes justice but is wider than it (though not as wide as the whole of morality). Scanlon refers to this as the domain of ‘what we owe to each other’. See, T. Scanlon, *What We Owe To Each Other*, (Cambridge, Mass.: Harvard University Press, 1998).
that is not entirely fair according to the second type of fairness, namely, the ideal of basic distributive fairness.

Now of course, from the point of view of the constructivist theorist, the fact that the distribution that results from the implementation of his recommended principles is not fair in the ‘basic distributive fairness’ sense is neither here nor there. For the constructivist, the whole point is that fairness has already been adequately taken care of at the stage of designing the initial choice situation. As we saw, this is why the constructivist feels justified in saying that the distribution that arises from the implementation of the principles that are chosen in this situation satisfy the fairness constraint. But the fact that the constructivist theorist denies that the criticism from basic distributive fairness has any force from within the terms of his theory does not show that the criticism itself is not valid.157

The question for the constructivist theorist is whether it is reasonable to assume in advance that the distribution that can be produced through the exercise of justifiable coercion will always be equivalent to the fairest distribution that can be produced through a combination of coerced and non-coerced action. Put another way, is it reasonable to assume that the reasons which prohibit the exercise of coercion in certain instances will never conflict with the reasons in favour of creating a more fair distribution? If the answers to both of these questions are ‘no’, as I believe they are,

157 My argument in this section owes a great deal to Cohen’s (by now) well-known argument against constructivism. I have set the argument up in my own terms, however, to avoid a major weakness in Cohen’s own discussion. Consider the following extended quote from Cohen: ‘…constructivism’s misidentification of principles of justice with optimal principles of regulation is dictated by the question that it puts to its privileged selectors of principles. They are not asked to say what justice is: it is we who ask that question, and the constructivist doctrine is that the answer to our question is the answer to the different question that is put to constructivism’s specially designed selectors, which is, what are the optimal rules of social regulation? My generative criticism of constructivism is that the answer to that question need not, and could not, be the same as the answer to the question: what is justice?’ Cohen, Rescuing Justice and Equality, p.275. What Cohen argues here has clear affinities with what I argue in this section (I ignore for now the slight difference in extension between Cohen’s ‘rules of regulation’ and my ‘principles of justified coercion’). The problem with Cohen’s ‘generative criticism’ is that it assumes the correctness of the view of justice which he (Cohen) already favours. This is bound to be unconvincing to the constructivist theorist, for the latter can simply reply that he denies Cohen’s view of justice. Cohen is right that the answer given by the principle-selectors to the question asked by the constructivist will not tell us what basic distributive fairness is. But it is a further, distinct step to claim that basic distributive fairness is a necessary (and for Cohen, sufficient) condition of a just distribution. By explaining what is involved in making this further step, and adducing some considerations in its favour, I have tried to provide some further support for Cohen’s argument against constructivism (though, as we shall see, I do not fully endorse Cohen’s conclusion).
then there arises the possibility of a gap opening up between the distribution that the constructivist theorist will *describe* as perfectly fair (because produced consistently with the principles of justified coercion chosen under conditions of constructivist fairness) and the distribution that displays the quality of basic distributive fairness (because produced not only consistently with the principles of justified coercion but also through the non-coerced choices of individuals concerned to ensure that people get a genuinely fair share of goods).

I believe that the notion of fairness that we should take the fairness constraint to refer to is the substantive ideal of basic distributive fairness. I therefore believe that the constructivist theorist’s claim: that the fairness constraint is satisfied by the distribution that results from the successful implementation of principles of justified coercion chosen under conditions of constructivist fairness, is (likely to be) false. Recall the example introduced earlier in which, even though the well-off members of a society have it within their power to equalise the currently unequal distribution of educational opportunities, the state would not be justified in coercing them to do so. The terms of the constructivist theorist’s view mean that he is not able to recognise either the initial unfairness in this situation or the subsequent gain in fairness that accompanies the voluntary acts of the well-off to equalise the distribution. In this sense, at least, the Constructivist version of the coercion view is even less plausible than the Basic Distributive Fairness version of the coercion view. Faced with this example I think what we want is a theory of justice that enables us to do three things: (1) endorse the limits on justified coercion which entail that the well-off cannot be forced to equalise opportunities, but nevertheless (2) deny that the unequal distribution as it originally stands is fully just, and (3) celebrate the voluntary actions of the well-off which move us in the direction of a more equal distribution as bringing about a gain in justice. The problem with either version of the coercion view is that it doesn’t allow us to do (2) or (3), and this suggests we need to look elsewhere for an alternative.
IV. The ideal-of-fairness view

In this section and the next I consider whether we might find such an alternative in what I call the ‘ideal-of-fairness view’ of justice. According to the fairness view, justice simply is basic distributive fairness. As we have already seen, basic distributive fairness describes the state of affairs that would obtain if there were no moral, prudential, or practical constraints on what we could do to make the world conform to what an impartial observer would describe as the perfectly fair distribution (I explain what I mean by a ‘moral, prudential, or practical constraint’ below). We have also seen that there are many different conceptions of what the ideal of basic distributive fairness might look like. The point to bear in mind is that, whatever the precise content of the ideal, unless people actually have what the ideal of basic distributive fairness says they should have, then there is something unjust about the state of affairs in question. Indeed, the further away the actual distribution is from the distribution specified by a particular conception of basic distributive fairness, the less just the actual distribution is, according to that conception.

Perhaps the best known proponent of the fairness view of justice is G.A.Cohen, who sums up his particular conception of that view like so:

…my own animating conviction in political philosophy with respect to justice is a conviction about distributive justice in particular. It is that an unequal distribution whose inequality cannot be vindicated by some choice or fault or desert on the part of (some of) the relevant affected agents is unfair, and therefore, pro tanto, unjust, and that nothing can remove that particular injustice.¹⁵⁸

¹⁵⁸ Cohen, *Rescuing Justice and Equality*, p.7. Further support for my interpretation of Cohen as a proponent of the fairness view is provided by Andrew Williams: ‘Many of us have convictions about how to rank different distributions of benefits and burdens between individuals abstracting from any practical limitations whatsoever, including the extent to which those distributions fall within any agent’s control. We might, for example, endorse a telic egalitarian distributive principle that implies a world in which some are sighted and some blind is less than fully just even if such inequality was undetectable and unavoidable. It is conceivable that it is this type of distribution-sensitive axiological principle that Cohen has in mind when referring to first principles of justice’. Williams, ‘Justice, Incentives and Constructivism’, p.492. See also, Tomlin, ‘Internal Doubts about Cohen’s Rescue of Justice’, p.244.
Two key aspects of Cohen’s position indicate that it is indeed an example of the fairness view of justice. First, Cohen rejects the idea, central to the coercion view, that justice is a regulative ideal whose aim is to achieve a balance between different values. Instead, he embraces the idea that justice is simply one value among others to be taken into consideration when deliberating over how to act (or, more pertinently, over how we may justifiably exercise coercion over others). So although Cohen clearly believes it is highly desirable to achieve (what he thinks is) a just distribution (i.e. one in which any relevant inequality can be vindicated by some choice or fault or desert of the affected agents), he also thinks that caring only about achieving this kind of just distribution, no matter what the cost in terms of other values, would be ‘crazy, a piece of [justice-]fetishism’. One can only make sense of this charge of ‘justice-fetishism’ if one interprets justice according to the fairness view. If justice is only one value among others which we could conceivably promote or respect then clearly it would be fetishistic to promote or respect it single-mindedly, but if justice is the result of an all things considered judgement relating to the balance of reasons in favour of coercion then acting according to this judgement is clearly not fetishistic, merely sensible.

The second aspect of Cohen’s position which indicates that it is an example of the fairness view of justice is the fact that the content of his view – what we may loosely describe as the ‘principle’ he endorses – applies in the first place to distributions rather than actions. Note that this does not mean that Cohen is claiming that we are able to simply read off from any particular distribution whether it is just or unjust without knowing anything about how that distribution came about. On the contrary, Cohen is explicit that the way in which inequalities are generated is what determines whether those inequalities are just or unjust. The point, therefore, is not that theorists who favour the fairness view of justice are uninterested in actions. Rather, it is that they are uninterested, except indirectly or ‘derivatively’, in the justice of actions. Theorists who favour the fairness view thus take distributions to be the primary subject of justice.

In terms of the distinction I made in the previous chapter, this means that whereas the

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coercion view is an example of an interactional approach to justice, the fairness view is an example of a ‘distributive’ approach to justice because it takes distributions and not actions (or institutions) to be the primary subject of justice. Because the content of the fairness view applies in the first place to distributions, it becomes a separate question what we may permissibly do in order to realise whatever is defined as the ideally fair distribution. And while, as we have seen, it may be desirable – perhaps very desirable – to achieve the ideally fair distribution, there may be all sorts of moral and/or prudential and/or practical reasons why this is not possible. In this case, we must admit that achieving a just distribution requires actions that are impermissible, or irrational, or simply impossible.

What does it mean to say that there are moral, prudential, or practical constraints on what may be done in pursuit of basic distributive fairness? Well, to say that there are moral constraints on what may be done in the pursuit of basic distributive fairness is to say that there are certain things we cannot justifiably do to others in order to bring about a perfectly just distribution. Imagine, for example, that advances in technology now mean that if the most talented people worked at certain key jobs at a certain level of intensity for a certain amount of time, productivity would increase to such a level that, if the material gains from this extra production were distributed in a certain way, everyone’s basic needs would be easily satisfied. If we think that basic distributive fairness will only be achieved when everyone’s basic needs are satisfied, then the goal of achieving basic distributive fairness would seem to require the most talented people to work at the necessary jobs at the necessary level of intensity for the necessary length of time. And if the talented people in question choose to meet this requirement by taking the necessary jobs, etc., then everyone’s basic needs will be satisfied and there will be an increase in basic distributive fairness. If they choose not to meet this requirement, however, the question is raised whether we may justifiably coerce them into doing so. Those who think that coercion in this instance is unjustified must believe that the value of, say, freedom of occupation, generates a moral constraint
on what we may do to people in order to realise basic distributive fairness. They must think it would be wrong to forcibly bring about an increase in justice.

Although there might seem to be something rather paradoxical about this idea that it might be wrong to bring about an increase in justice, it is in fact a fairly common idea in the literature. This quote from Hayek illustrates the point nicely:

If one objects to the use of coercion in order to bring about a more even or a more just distribution, this does not mean that one does not regard these as desirable. But if we wish to preserve a free society, it is essential that we recognise that the desirability of a particular object is not sufficient justification for the use of coercion.¹⁶⁰

We do not need to know what conception of an ideally fair distribution Hayek has in mind here – or indeed whether he actually endorses such a view – to know that the concept of justice he is employing is the fairness view rather than the coercion view of justice. According to the fairness view, and unlike the coercion view, it makes perfect sense to talk about the justice or injustice of a distribution independently of the question whether we are justified in coercing people into bringing that distribution about. Determining when coercion is justified does not, therefore, tell us anything about justice. Instead, determining when coercion is justified requires us to balance what we already know to be justice against other values that might be promoted or affected by such coercion.

The constraints of morality are not the only reason why we might not be able to bring about basic distributive fairness; there are also prudential and practical constraints to consider. To say that there are prudential constraints on what we may do in pursuit of basic distributive fairness is to say that although it would not be morally wrong to attempt to force people to do what is necessary to produce basic distributive fairness, it would nevertheless be counterproductive in terms of achieving our all-things-considered aims. Referring back to our example, we can plausibly imagine that the gain in productivity that we hope will result from the talented taking on certain jobs will

only actually come to pass if the talented chose to take on those jobs willingly. Indeed, we can imagine that by forcing them to do these jobs we actually bring about a loss of productivity compared to the level it was at before we intervened. Under these circumstances, even if we decided that there was nothing morally wrong with forcing the talented to take on the necessary jobs, we might well decide not to intervene, since doing so would actually take the distribution further away from the ideal of fairness according to which everyone’s basic needs are satisfied.

Finally, to say that there are practical constraints on what may be done in pursuit of basic distributive fairness is to say that even if there are no moral or prudential constraints on our pursuit of the ideal, it may simply be impossible to realise the ideal. To once again illustrate this in terms of our example, we can now imagine that even if forcing the talented to work at certain jobs was not morally unacceptable, and even if this would as a matter of fact be the most productive course of action, it may still turn out that the resulting productivity gains are not in fact sufficient to produce the goods required to satisfy everyone’s basic needs. Under these circumstances forcing the talented to work at certain jobs might be the best way to minimise the injustice resulting from the absence of basic distributive fairness, but it would, ex hypothesi, be insufficient to achieve full justice in the form of perfect distributive fairness.

V. The problem with the ‘pure’ fairness view

Having outlined the fairness view in a bit more detail, I now want to apply it to the example I set out earlier when discussing the coercion view. The example asked us to imagine a situation in which the fact that an unequal distribution of educational opportunities represented a violation of the ideal of basic distributive fairness was not enough, in and of itself, to justify coercing people into doing what was necessary to remove the inequality. It was implicit in the example (and I now want to make this explicit) that the reason why coercion is unjustified in this case is because such coercion would be inconsistent with treating people in a way that respects their distinctive moral status. Faced with this example, what Cohen and other proponents of the fairness view would presumably say (assuming they accepted the way I have set it up), is that it would
be a piece of justice-fetishism to insist that we nevertheless go ahead with coercing people into removing the injustice and restoring basic distributive fairness. But what really interests me is what Cohen would say if, notwithstanding his accusations of justice-fetishism, we\textsuperscript{161} nevertheless went ahead and coerced people into doing what was necessary to remove the injustice (perhaps initially by redistributing resources and then, if more drastic measures were needed, by prohibiting people from taking up certain jobs and forcing them to teach in deprived areas). What would Cohen (and other proponents of the fairness view) say about the resulting distribution?

At least on the evidence presented here, it seems that what Cohen would say is that the distribution that results from such an exercise of unjustified coercion is perfectly distributively just. Indeed this must be the verdict of anyone who thinks that an ideal of fairness is all there is to distributive justice. And I believe it is precisely this verdict that exposes the central flaw in the fairness view of justice itself. The problem is that it seems obviously incorrect to describe the distribution which has been produced through the unjustified (because respect-violating) use of coercion as perfectly just. We know from the basic definition of distributive justice given in chapter 4 that it is a value or an ideal concerned with what people are due. It is explicit in the example under discussion that what people are due is respect for their distinctive moral status (which in this case implies the right to hold on to their resources and/or choose what occupations to pursue). Granted, it is also explicit in the example that people are due equal educational opportunities. But these two conditions are not strictly speaking incompatible, for, as we saw earlier, it is open to the relevant parties (before any coercive intervention) to voluntarily act so as to equalise educational opportunities. As soon as we intervene, however, and coerce these people into equalising educational opportunities, we guarantee that we are not going to achieve a result in which everyone gets what they are due.

The fairness view offers an incomplete answer to the problem of defining justice because it only attends to one aspect of what people are due and ignores the

\textsuperscript{161} By ‘we’ I mean you and I and other members of society forcing our fellow citizens to act in certain ways through the coercive apparatus of the state.
other. Particular conceptions of the fairness view will always highlight the aspect of what people are due that refers to what they would get under a distribution of basic distributive fairness. As I argued in section III, this is a very important aspect, indeed a necessary aspect, of justice. But there will also always be an aspect of what people are due which is not captured by a conception of the fairness view, namely, that which refers to the respectful treatment they are due from others when those others are contemplating the exercise of coercion.

How might proponents of the ‘pure’ fairness view respond to the objection that their view necessarily fails to attend to this second important aspect of justice? Well, one way in which I think we can safely say they will not respond is by denying the importance of having limits on the exercise of coercion, even when this coercion is being exercised in the name of ‘justice’ (i.e. basic distributive fairness). As we saw above, even Cohen thinks that it would be a ‘crazy’ piece of justice-fetishism to think that the value of achieving an ideally fair distribution will always override the pursuit of other values.

But if the need to have limits on the exercise of coercion is not in dispute, then it starts to look as though the problem may just be one of nomenclature. Proponents of the pure fairness view want to resist including the principles of justified coercion within the scope of application of the concept of distributive justice. But why? What grounds have we got for denying (why would we want to deny?) that the question concerning the permissibility of exercising coercion over people in order to achieve a distribution that mirrors the ideal of basic distributive fairness is itself a question of justice? Here I can only repeat what I said above about the fact that distributive justice is a concept concerned with what people are due. There is nothing in this basic idea – an idea which, as we have seen, underpins all the different interpretations of the concept of distributive justice – that rules out the possibility that ‘what people are due’ is certain kinds of treatment by others. Indeed there are many theorists who think this is all justice is concerned about.
I suspect that the vigour of Cohen’s attempts to retain the concept of ‘distributive justice’ for use in referring to the ideal of basic distributive fairness is ultimately motivated by his desire to highlight its importance, to keep people focused on analysing and refining our understanding of it, and to ‘rescue’ it from being lost among all the other distinct values that typically, and necessarily, get thrown into the constructivist machine. If so, then I share his desire, but I reject his solution. Justice is more than simply basic distributive fairness, and it is a mistake to try to deny this. But to say that justice is more than simply basic distributive fairness is not to say that the concept of basic distributive fairness need no longer be allocated a distinct role within a theory of justice. Cohen’s concern that the distinct concept of basic distributive fairness will be lost if we try and adopt a broader concept of justice that is sensitive to all sorts of different considerations can, I think, be assuaged if, instead of thinking of justice as a single, unified concept, we think about it in terms of a conceptual framework within which two distinct components interact with one another. The task of the next chapter is to set out this conceptual framework in more detail.

VI. Conclusion

The difference between the ‘pure’ fairness view and the ‘pure’ coercion view can be put like this. On the fairness view, justice is an ideal that has to be weighed against or – if this sounds too purely consequentialist – considered in the light of, other ideals (such as freedom, efficiency, and respect for persons) in order for us to work out whether and how we are justified in coercing people. The principles of justified coercion

162 Evidence from a recent article suggests that Cohen no longer straightforwardly denies that distributive justice is more than basic distributive fairness. His more recent view is that there are ‘different kinds of justice’, (see, Cohen, ‘Fairness and Legitimacy in Justice, And: Does Option Luck Ever Preserve Justice?’, p.6). The two different kinds of justice he mentions are ‘fairness justice’ and ‘legitimacy justice’ (p.17). By ‘fairness justice’ Cohen appears to be more or less the same thing I mean by ‘basic distributive fairness’. What Cohen takes ‘legitimacy justice’ to refer to is harder to pin down. It seems that, for Cohen, a distribution is correctly said to be characterised by ‘legitimacy justice’ when ‘no one has the right to complain about it’ and ‘no one has a just grievance against it’ (p.7). This is obviously a slightly different idea to my identification of the second aspect of justice with the principles of justified coercion. But whatever the details of Cohen’s view, what is noteworthy is his realisation that distributive justice could not be adequately theorised only in terms of basic distributive fairness (or ‘fairness justice’). I hope he would agree that the ‘dual-component model of justice’ that I set out in the next chapter is a useful way of incorporating this insight into our understanding of justice.
coercion that result from this process are not principles of justice, since they do not tell us what justice is but, rather, how best to balance justice against other values. On the coercion view, in contrast, justice is the *result* of this process of balancing different values and ideals (such as fairness, freedom, efficiency) against one another. The principles which result from this balancing process tell us whether and how we are justified in coercing people, and these principles *are* principles of justice.

We have seen that, taken individually, both the coercion view and the fairness view provide accounts of justice that are incomplete in important respects. The problem with the ‘pure’ coercion is that even if the rules stipulating when coercion is justified are followed to the letter, there is no guarantee that the distribution that results will be fair. And since a just distribution must also be a fair distribution (the fairness constraint) this is deeply problematic for the coercion view. The problem with the ‘pure’ fairness view is that there are a number of ways to bring about a fair distribution, and not all of them treat people justly. Since a distribution that arises as a consequence of people being treated unjustly is not a fully just distribution, this is deeply problematic for the pure fairness view. What I have argued, in other words, is that each of these two approaches to justice is lacking what the other approach provides. The obvious response to the individual failure of both approaches is to combine them in a single view. It is to this task that I now turn.
I. Introduction

I have argued that the coercion view and the fairness view both capture important aspects of the concept of distributive justice. I have also argued that neither view, taken on its own, offers a complete account of the concept of distributive justice. In this chapter I explain how the coercion view and the fairness view can be combined within a single conceptual framework in order to provide a genuinely complete account of distributive justice. I call this conceptual framework the ‘dual-component model of distributive justice’. In section II I explain in more detail how the dual-component model works. In section III I briefly set out in more formal terms the implications of the dual-component model for our judgements of the justice of actions and distributions (states of affairs). In section IV I explain how a rationale for the dual-component model can be found in Nagel’s distinction between the personal and impersonal moral standpoints. And in section V I consider and, ultimately, reject an objection to the dual-component model based on the claim that it is unnecessarily complex, and that a simpler approach would be to maintain a single-component approach to justice while incorporating some kind of personal prerogative into that approach.

II. Outline of the dual-component model

The central claim of the dual-component model of justice can be formulated as follows:

The dual-component claim: There are two necessary\textsuperscript{163} conditions of a fully just distribution. First, it must mirror the ideal of basic distributive fairness.

\textsuperscript{163} But not, strictly speaking, sufficient, since we might still be doubtful about the justice of a distribution even if it satisfies both necessary conditions. Call a distribution that satisfies both conditions a ‘prima facie just distribution’. It is possible that a prima facie just distribution might have been brought about through some form of manipulation, rather than coercion. Since such manipulation, by definition, does not violate the principles of justified coercion, are we thereby
Second, it must have been brought about without any violation of the principles of justified coercion.

The dual-component claim implies the further claim that any sound (i.e. plausible, coherent and complete) conception of justice will necessarily contain two components. First, it must contain a distributive component the role of which is to specify what the ideal of basic distributive fairness looks like. Second, it must contain an interactional component, the role of which is to specify the content of the principles of justified coercion. In order to work out the content of the distributive component of justice one must adopt a fairness view of justice. In order to work out the content of the interactional component of justice one switches to adopting a coercion view of justice. By combining the fairness view and the coercion view of justice within the same conceptual framework the dual-component model avoids the problems that, as we saw in the previous chapter, beset both views when interpreted in their ‘pure’ form. Of course, claiming that the dual-component model manages to successfully combine the fairness and coercion views of justice within a single framework is one thing. Justifying that claim is another. How, then, does the dual-component model of justice work?

The first step is to formulate the content of the ideal of basic distributive fairness. Since the ideal of basic distributive fairness invokes a standard that applies in the first instance to states of affairs, rather than directly to actions, there is no need at this stage to worry about whether the actions (both coercive and non-coercive) necessary to realise and maintain the ideal would be permissible, desirable, or indeed even possible if they were attempted in the real world. Issues concerning the

committed to thinking that it does not taint the resulting distribution with injustice? Or consider a bizarre situation in which a prima facie just distribution has been brought about by some random natural process that would have violated the principles of justified coercion if it had been controlled and implemented by people. Is such a distribution perfectly just? Do the people who have been ‘treated’ by the natural process in a way that would have been unjustified if it had been controlled by people have a just complaint with regards to their resulting situation? Does it make a difference if the people who ended up benefitting from the effects of the natural process could have prevented it from occurring? These are difficult questions that I do not yet know how to answer. The way to go, I think, is to expand the scope of the interactional component so that it sets limits not only on justified coercion, but also on manipulation, and on various other objectionable ways in which distributions that mirror the ideal of basic distributive fairness might come about. To defend this view, however, would obviously require a lot more work, and I am content for now merely to defend the narrower version of the interactional component that is only concerned with the limits on justified coercion.
permissibility and the desirability of attempts to realise the ideal can be dealt with when
the content of the interactional component is formulated. And if the ideal is impossible
to realise then this does not impugn its status as an ideal, it merely means that a fully
just distribution is, perhaps for the foreseeable future, unachievable. Bearing all this in
mind, our aim is to work out what an impartially fair distribution looks like once we
abstract away from any moral, prudential, or practical constraints that might apply to
any proposed attempts to realise the ideal in practice. As I explained in the previous
chapter there is likely to be deep disagreement over what, exactly, an impartially fair
distribution looks like, though as I argue in the next chapter, the number of possible
alternatives will be limited by the fact that the ideal is a distributive (rather than
interactional or institutional) ideal. (This is because there are certain formal constraints
that apply to the type of ‘principle’ that specifies the distributive ideal that do not apply
to other kinds of principle). In any case, once we have the content of the ideal in hand
we are then in a position to say in principle what each person would have under a
perfectly just distribution.

The next step involves switching the focus of the inquiry from the content of
the distributive component of justice to the content of the interactional component of
justice. Here we adopt the perspective on justice taken by the proponent of the
coercion view in order to work out the content of the principles of justified coercion.
One way of approaching this task is to imagine that we are now addressing the issues of
the permissibility and desirability of possible attempts to realise the ideal that we put to
one side when formulating the content of the distributive component. Initially we are
to imagine various ways of pursuing the ideal of basic distributive fairness in practice.
Our focus here should not be directly on what people should be obliged to do in order
to realise and maintain the ideal – this would turn our inquiry into one about morality
in general rather than the more specific inquiry into justice. Instead, our focus should
be on what people could justifiably be coerced into doing by third parties. We then
have two questions to address. First, assessing these alternatives from a consequentialist
perspective, which alternatives achieve the most acceptable balance between the value
of realising the ideal of basic distributive fairness and the value of realising other important ideals (such as economic efficiency, political stability, collective self-determination, individual privacy, etc.)? Second, assessing the alternatives from a deontological perspective, which of them require as part of their implementation an unacceptable violation of the respect that is due to persons in virtue of their distinctive moral status? Attempting to answer these questions will reveal to us (or will force us to construct) the set of fundamental principles which specify the limits of justified coercion. These principles form the content of the interactional component of justice.

It is important to notice that while the principles of the interactional component ostensibly articulate the point at which a third party may justifiably exercise coercive interference over an individual or group in order to get them to act or not act in a particular way, what they effectively specify is the minimum that can be expected of a particular individual if he is to act within the bounds of justice. For instance, imagine it is decided (implausibly) that basic distributive fairness is achieved when the distribution of wealth is perfectly equal. Imagine also that in order to realise and maintain this ideal it is, for some strange reason, necessary for me not only to work as a doctor but also to work a twelve hour shift, every day, seven days a week. Now imagine it is decided that, although the twelve hour shift requirement is an unacceptable imposition on my personal freedom (or perhaps that it is inconsistent with the respect I am due in virtue of my moral status), it is nevertheless justifiable to force me to work as a doctor for a maximum of eight hours a day. In this case, the interactional component of justice stipulates that I act unjustly if I do not work as a doctor for a maximum of eight hours a day. That is, even if I am not coerced into working as a doctor for at least eight hours a day, I nevertheless fail to act even minimally justly if I do not voluntarily work as a doctor for at least eight hours a day. The interactional component’s focus on the limits of justified coercion is not meant to imply the implausible view that the interactional component of justice can only be satisfied if people act justly because they are coerced. It is possible for the interactional component of justice to be satisfied in a
world in which there is no coercion whatsoever, so long as everyone acts in ways in which they could justifiably be coerced to act.

The doctoring example in the last paragraph also highlights another attractive feature of the dual-component model, the need for which I tried to emphasise in the previous chapter. Although I can avoid acting unjustly if I choose or am coerced to work as a doctor for the specified minimum eight hours per day, I could act more justly if I worked extra hours as a doctor (in the example it was stipulated that twelve hours would be enough to achieve perfect distributive justice but we would need to know how much others were doing before we could say that working this amount of hours is the most just I could possibly be – if others were slacking then I might need to voluntarily work more than twelve hours per day in order to be considered as just as possible). The example itself is obviously a rather unlikely one, but it amply demonstrates the unique way in which the dual-component model creates some conceptual space within which people are free to act in ways that may increase the amount of justice of the world.

To explain this point further, note that the model is used to determine two ‘levels of sacrifice’ that the well-off might make. The first level represents both the minimum level of sacrifice we can expect of people and the maximum level of sacrifice that we can force people to make. The second level represents the level of sacrifice that people would need to make in order to achieve full justice (or as much justice as it is physically possible for them to achieve). The difference between the first level and the second level represents the space within which people can exercise choice about how much they are willing to sacrifice in the name of justice. Unless we have this ‘remainder of injustice’ after everyone has been forced to do as much as they reasonably can, then we will find it difficult to describe why, when people act in a morally praiseworthy way against their own self-interest, such action can lead to a more just world.164

164 Recall the example I raised in chapter 4 (while criticising Pogge’s institutionalist view) of the individuals who decide to break the law by freeing slaves in a slave-holding society. I discuss this point (though not this specific example) in greater detail in section V when I consider the possibility of incorporating a personal prerogative into a single-component model of justice.
The aim of outlining the dual-component model in this section was to explain not only how the two components of justice interact with one another but how we might go about determining their content. Many questions are left open of course, not least those that concern the precise content of the two components. In chapter 7 I hope to answer at least some of the questions concerning the content of the distributive component of justice. And although I shall not directly address questions concerning the content of the interactional component, I shall discuss two examples in chapter 8 which further explain the motivation for separating the interactional component from the distributive component.

III. Formal implications of the dual-component model

According to the dual-component model, a conception of distributive justice is necessarily incomplete unless its fundamental principles refer both to the justice of states of affairs as such, and the justice of the actions that bring states of affairs about. The dual-component model thus includes a principle or set of principles which takes distributions to be the primary subject of justice and a principle or set of principles which takes actions to be the primary subject of justice. Of course, the fact that the principles of the distributive component and the interactional component apply to distinct primary subjects does not mean that they do not have derivative implications for other subjects of justice. Below I list all the implications, both primary and derivative, that the dual-component has for the justice of the three main subjects of justice that I have so far considered: distributions, actions and institutions.

A distribution is fully just when:

(a) it mirrors the ideal of basic distributive fairness

and

(b) it was realised without any violation of the principles of justified coercion.

A distribution is unjust to the extent that:

(c) it does not mirror the ideal of basic distributive fairness

and/or
(d) it is the result of exercises of coercion that violate the principle(s) which specify the limits on justified coercion

and/or

(e) it is the result of the failure to perform/not perform actions whose performance/non-performance could have been justifiably coerced.

An act is unjust to the extent that:

(f) it violates the principles of justified coercion

and/or

(g) its performance/non-performance could have been justifiably coerced.

An act which is not unjust is more just or less just depending on:

(h) whether its performance/non-performance moves us closer to or further away from the ideal of basic distributive fairness than the alternative actions available to the person in question.

An institution is unjust to the extent that:

(i) its existence plays a causal role in the violation of the principles of justified coercion.

An institution which is not unjust is more just or less just depending on:

(j) the extent to which its existence engenders basic distributive fairness.

IV. Nagel’s two standpoints

A natural response to the dual-component model, at least as I have outlined it so far, is to worry about its coherence. The dual-component model asks us, first, to work out what an intrinsically just state of affairs looks like and then, second, to work out what we can justly coerce people to do in order to achieve this. The worry is this: if the first claim about what an intrinsically just state of affairs looks like is correct, it is hard to see how it could possibly be unjust to coerce people to act in order to achieve it. Alternatively, if the second claim about what it is intrinsically just to coerce people to
do is correct, it is hard to see how the outcome of such coercion could coherently be criticised as unjust.

I think the best response to the incoherence objection is not to deny it but to try to show how the purported incoherence of the dual-component model is simply a reflection of a well-known tension implicit in all moral theorising (of which the theory of justice is only a part). The tension in question is the one that exists between what have been referred to as the ‘personal’ and ‘impersonal’ moral standpoints:

The hardest problems of political theory are conflicts within the individual, and no external solution will be adequate which does not deal with them at its source. The impersonal standpoint in each of us produces...a powerful demand for universal impartiality and equality, while the personal standpoint gives rise to individualistic motives and requirements which present obstacles to the pursuit and realisation of such ideals.\(^{165}\)

I know of no systematic application of Nagel's distinction between the personal and impersonal standpoints to the study of distributive justice and, unfortunately, Nagel's own comments on the matter are little more than cursory. Discussing the current, severe level of global inequality, Nagel concludes that, when we combine the personal and impersonal standpoints we will find that:

The degree of sacrifice by the rich that it would be reasonable for the poor countries to insist on in some hypothetical collective arrangement is one which it would not be unreasonable for the rich to refuse...Specifically, the poor may recognise that the rich are not unreasonable to resist more than a certain level of sacrifice, in light of their constellation of motives, while at the same time the poor may reasonably refuse to accept the resulting degree of benefit as sufficient, even in light of the recognition that the rich can reasonably refuse more.\(^{166}\)

What Nagel has identified here is very similar to the ‘justice gap’ which, as we saw in the introduction, Miller claims exists between the global rich and the global

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poor. Whether or not Miller endorses the tension that Nagel claims to have identified between the personal and impersonal standpoints, both he and Nagel appear willing to accept that it is possible to define what a just distribution would look like without being committed to the conclusion that it is just to force people to do whatever it takes to achieve this distribution. In our world at least, Nagel and Miller seem to think that we cannot enforce justice for the poor without committing an injustice against the rich. Since this conclusion is precisely what the incoherence objection to the dual-component model was criticising, we can at least say that the latter is in good company.

I want to say more than this, however. First, the possibility that it might be impermissible to coerce the rich to give up everything that would be required in order to realise justice for the poor is not incoherent but, rather, tragic. Insofar as this is true, the problem is with the world, not the theory. If the impartial ideal represented by the distributive component of justice does not dovetail neatly with the restrictions that limit how we may (coercively) treat individuals in the name of that (or any other) ideal, then the correct response is to feel regret, not to look for some way to theorise it away. Having said that, however, it would be a mistake to think that once we have identified the tragedy of the justice-gap there is nothing that we can do, from a theoretical perspective, to suggest a way forward. Compare Nagel:

If there is no solution that no one could reasonably reject, neither party to the conflict can be reproached for trying to impose a solution acceptable to him but unacceptable to his opponent. Both the status quo and a revolutionary alternative may meet this condition. The fact that the status quo is the status quo usually means that those whom it favours have the power to impose it; but if in such circumstances others acquire the power to overthrow it, they cannot be reproached for using it.\textsuperscript{167}

If I understand him correctly, what Nagel is suggesting here is that once a justice gap emerges there is no principled way of responding to it that will be acceptable to everyone, and so there is no way in principle of ruling out a power struggle between the well-off and the badly-off as each group tries to impose the alternative from the list

\textsuperscript{167} Nagel, \textit{Equality and Partiality}, p.173.
of equally unjust alternatives that suits it best. This is not a particularly optimistic vision, but it may well be an accurate description of the most likely scenario. Nevertheless, there is still reason to hope that a better solution can be found in theory. The dual-component model represents my attempt to do this.

One way of interpreting the dual-component model of justice is thus to see its two components as responding to the distinctive concerns that arise from the two moral standpoints. The distributive component, on the one hand, can be understood as a response to the claims of justice that arise from the impersonal moral standpoint. From this perspective, a perspective that we all share, each person’s life is of great importance, and no one’s life is more important than any other’s. In order, as it were, to ‘do justice’ to this fact, the aim of the distributive component is to work out what a fair distribution looks like judged purely from this perspective. The question Nagel suggests we ask when considering things from the impersonal standpoint is, ‘What can we all agree would be best, impersonally considered?’ This is close to what we want, but Nagel’s question is too broadly ethical to adequately capture our more specific concern with justice. For the purposes of a theory of justice our question should instead be, ‘What can we all agree would be fairest, impersonally considered?’ The answer to this question is provided by a conception of the ideal of basic distributive fairness. Now of course, there are bound to be many rival conceptions of basic distributive fairness, and thus many rival conceptions of the content of the distributive component of justice. In the next chapter I shall argue for my preferred conception of the distributive component, which I believe consists of a single principle: the principle of equality of opportunity for well-being. But it is important to ensure that questions concerning the correct conception of the distributive component are separated from questions about the validity of the distributive component of justice itself. If the principle of equality of

168 Compare Christiano, ‘The principle of equality stands out as a fundamental principle when we take the impersonal point of view toward persons. When we step back from our particular interests, roles, and special relationships and we take a perspective on persons and their lives generally, we see that it is important that their well-being is advanced and that that well-being be advanced in a way that accords with justice’, T. Christiano, The Constitution of Equality: Democratic Authority and Its Limits, (Oxford: Oxford University Press, 2008), p.30.

169 Nagel, Equality and Partiality, p.15.
opportunity for well-being is an implausible or unviable candidate for the content of
the distributive component then this should obviously not be taken to imply that the
distinct role of the distributive component itself must be rejected.

The other component of justice, the interactional component, can be
understood as a response to the claims of justice that arise from the personal moral
standpoint. From this perspective, a perspective that, again, we all share, but whose
content is now unique to each person, the importance of our own life looms large, and
the relative strength of the claims that others have is diminished. Although the view
from the personal standpoint is different for each of us, the fact that there is such a
standpoint, and the fact that it is of great importance to each person, is something that
we can all recognise. And because the validity of the personal standpoint is something
that we can all agree on, this standpoint also grounds principles of justice. Here, again,
the question Nagel suggests we ask is almost the right one. According to Nagel, the
question we should ask when considering things from the personal standpoint is,
‘What, if anything, can we all agree that we should do, given that our motives are not
merely impersonal?’170 But again, Nagel’s question is too broadly ethical to adequately
capture our more specific concern with justice. For the purposes of a theory of justice
our question should instead be, ‘What, if anything, can we all agree that we can coerce
others to do, given that our motives are not merely impersonal?’ The answer to this
question is given by the principles that set limits on how we may coercively interfere
with others in the name of impersonal goals, including the goal of basic distributive
fairness.

Perhaps unsurprisingly, determining the content of these principles is much
more difficult than determining the content of the distributive component (though as
we shall see in the next chapter, working out the content of the distributive component
is no easy task either). Whereas the distributive component is concerned with
articulating a single value: fairness (or, more accurately, basic distributive fairness), the
interactional component must, due to its inherently practical (i.e. action-guiding) nature,

170 Nagel, Equality and Partiality, p.15.
respond to a much wider range of relevant considerations. The fact that we each have our own lives to lead and our own projects to pursue is a fact that is relevant from both moral standpoints. But it is also a fact that looks very different when viewed from the different perspectives. When viewed from the impersonal standpoint the huge individual variety of people’s lives and the various projects they are engaged more or less disappears from view. Instead, what we see is a mass of claims, all hugely complex in their own right, but all ultimately equal in their prima facie validity and normative significance. From the personal standpoint the view is very different. From this perspective each person encounters their own ‘strong personal allegiance to particular communities of interest or conviction or emotional identification’. Some of these allegiances are consciously chosen, many of them are not, and both chosen and unchosen allegiances are of great importance to the individual whose allegiances they are. We love particular people, we identify with particular projects, we care about particular ends. The diversity of these relationships, projects, and ends means that constructing principles of justice that respect them – and, more to the point, the individuals whose relationships, projects, and ends they are – is a hugely complex task.

In chapter 8 I shall therefore attempt to do no more than gesture at the way in which one might approach this task. Rather than try to work out the substantive content of any principles of justified coercion, I consider some detailed examples in order to further motivate the interactional component of justice and to indicate its usefulness in helping us solve the problem of global justice.

V. The dual-component model and the personal prerogative

The dual-component model, as outlined above, obviously lacks the virtue of theoretical simplicity. As a result of this it is vulnerable to the objection that the intuitions it attempts to respond to can be more efficiently, and perhaps more adequately, explained by some simpler conceptual model. In this section I consider a version of this objection which says that the dual-component model should be rejected

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in favour of incorporating an ‘agent-centred’ or ‘personal’ prerogative into a ‘single-component’ model of justice.

A claim I have made numerous times now is that, when it comes to distributive justice, we intuitively feel as though particular persons should not constantly be expected to sacrifice their freedom for the sake of achieving the impersonal ideal of basic distributive fairness. I have also claimed that we should nevertheless continue to characterise a fully just distribution as one that reflects basic distributive fairness, since if people choose to exercise their freedom in a way that helps realise this ideal then it is important for us to be able to recognise the resulting increase in justice. I argued that the way to respond to these two claims is to conceptualise justice as consisting of two distinct components, one specifying what a fair distribution looks like from an impersonal standpoint, the other specifying the limits on what people can be forced to do in order to realise this distribution (thereby indirectly limiting what it would be unjust for them to choose to do/not do of their own volition). What the proponent of the ‘personal prerogative objection’ claims is that the dual-component model represents an unnecessarily complex response to the original pair of claims. Instead, we should consider the possibility that a better response might be to start with a more straightforward single-component model of justice and simply incorporate the idea of a personal prerogative into it.

Personal prerogatives have been defined as protected spheres of agent-relative freedom which make it ‘permissible, within limits, for an agent to pursue his own projects even when they would not produce the best overall outcome impersonally judged’.172 Personal prerogatives are thus clearly intended as a direct response to the intuition I referred to above, namely, that particular persons should not constantly be expected to sacrifice their freedom for the sake of achieving the impersonal ideal of basic distributive fairness.173 In order to test the claim put forward by the personal prerogative objection – i.e. that the dual-component model is unnecessarily complex

and that a simpler approach would be to incorporate a personal prerogative into a single-component model – I want to compare and contrast two such attempts to implement this allegedly simpler approach, one of which attempts to incorporate a personal prerogative into a pure coercion view of justice, the other of which attempts to incorporate a personal prerogative into a pure fairness view of justice.

Let us begin, then, by positing a pure consequentialist version of the coercion view. It holds that the only important value from the point of view of justice (i.e. at the stage of principle-formation) is basic distributive fairness and that, therefore, the goal of achieving basic distributive fairness always justifies coercion no matter what such coercion involves (for simplicity’s sake let’s once again stipulate that the content of the ideal of basic distributive fairness in this case is an equal distribution of wealth). The conception of the coercion view I am imagining here thus consists of a single principle which says that coercion is always (and only) justified if it helps to realise and/or maintain an equal distribution of wealth.

Turning now to posit a conception of the fairness view, we can say that this conception also holds that the content of the ideal of basic distributive fairness is given by an equal distribution of wealth. Of course, it goes without saying that on this view the ideal of basic distributive fairness is the only value relevant to justice, since the identification of justice with the ideal of basic distributive fairness is the defining characteristic of the fairness view. In order to generate practical recommendations similar to those generated by the coercion view, however, we need to know whether and how to combine the value of justice with other values that might be relevant to the principles of justified coercion. Clearly, if the conception of the fairness view I am imagining here is to generate similar practical recommendations to the conception of the coercion view outlined above, then we must stipulate that there are no other relevant values when it comes to formulating the principles of justified coercion. In this way the conception of the fairness view I am imagining says that coercion is always (and only) justified if it helps realise/maintain an equal distribution of wealth.
With these two conceptions in hand, let us now see what happens when we incorporate a personal prerogative into each conception. Beginning with the coercion view, we can see that the point at which the personal prerogative must be introduced is at the stage of principle-formation. In this case what this entails is that the value of basic distributive fairness is no longer the only relevant value at the stage of principle-formation; when the theorist sits down to work out the principles of justice (i.e. the principles of justified coercion) he now has to consider how to appropriately combine the ideal of basic distributive fairness with the demands of the personal prerogative. Strictly speaking it is open to the coercion view theorist to interpret the personal prerogative in either a consequentialist way (i.e. as a value whose maximal realisation is in direct competition with the maximal realisation of basic distributive fairness) or a deontological way (i.e. as a value which generates side-constraints on the maximal realisation of basic distributive fairness). To keep things simple, however, I shall assume that the personal prerogative is to be interpreted in the (more plausible, I think) deontological sense. The principle of justice that emerges from this process will now say that coercion is justified if it helps to realise/maintain an equal distribution of wealth unless such coercion threatens to violate the sphere of personal freedom protected by each person’s prerogative.

Turning now to the fairness view, we can see that the point at which the personal prerogative must be introduced is not at the stage of working out the content of justice – the solution to that problem is already given by the ideal of basic distributive fairness. Instead, the point at which the personal prerogative must be introduced is at the stage of formulating the principles of justified coercion. The theorist’s task here is thus to work out how to balance the pursuit of justice against respect for the personal prerogative. The principles that emerge from this process will presumably say that coercion is justified if it helps realise/maintain an equal distribution of wealth unless such coercion threatens to violate the sphere of personal freedom protected by each person’s prerogative.
We can now see that when the personal prerogative is incorporated into both the coercion view and the fairness view, the practical recommendations of both views are modified in exactly the same way. Whatever difference there is between the two views after the incorporation of the personal prerogative is not to be found in their practical recommendations, but in the content of each view’s conception of justice. On the prerogative-modified coercion view, justice is clearly less demanding than it was before the incorporation of the prerogative, since people may now choose to devote time and energy to their own projects even when this conflicts with the goal of maintaining an equal distribution of wealth. Thus, when we make derivative judgements about the justice of the distribution that results from the application of this less demanding standard of justice, we now find that we are indifferent between the justice of the distribution that results when no one exercises his personal prerogative and the justice of the distribution that results when everyone exercise his personal prerogative (and indeed the justice of any distribution in between these two extremes). Our indifference between the relative justness of these two distributions follows straightforwardly from the fact that justice itself is now partly constituted by the personal prerogative; we still think an equal distribution of wealth is a fair distribution, but we are no longer able to say that such a distribution is more just than the less equal distribution that results when people pursue their own projects.

The implications of the prerogative-modified fairness view are rather different. According to this view, while the principles of justified coercion are less demanding than they were before the incorporation of the prerogative, the content of justice remains unchanged. Thus, unlike on the prerogative-modified coercion view, we are not indifferent, on the prerogative-modified fairness view, between the justice of the distribution that results when no one exercises his personal prerogative and the justice of the distribution that results when everyone exercises his personal prerogative. It continues to be the case that a fully just distribution is an equal distribution of wealth, even if the fact that some or all people have chosen to exercise their prerogatives means that justice in the form of an equal distribution of wealth is not realised or maintained.
What we have here, then, are two alternative ways of incorporating the notion of a personal prerogative into a single-component model of justice. The question we need to answer is whether either approach is superior, all things considered, to the dual-component model. I shall argue that neither approach is superior to the dual-component model.

The problem with the prerogative-modified coercion view is the same problem that afflicts all conceptions of the coercion view, namely, their violation of the ‘fairness constraint’ (which says that a fully just distribution must be characterised by the quality of basic distributive fairness). In fact, the process of incorporating the personal prerogative into the coercion view nicely illustrates precisely what is objectionable about the violation of the fairness constraint. We started for the sake of argument with the idea that an ideally fair distribution was one in which wealth was distributed equally. Having noted that any attempt to realise and maintain such an ideal distribution would likely require us to coercively prevent people from pursuing their personal projects to an unacceptable degree, we then suggested that justice should be made sensitive to a personal prerogative that limited what we could coerce people to do in the name of basic distributive fairness. The point of incorporating the personal prerogative was thus to give people the choice whether to act so as to realise and maintain basic distributive fairness or whether instead to devote their time and energy to the pursuit of their own projects. Now imagine two scenarios: in the first scenario people unanimously choose the former option and basic distributive fairness is realised after all; in the second scenario people unanimously choose the latter option and basic distributive fairness is not realised. Since we believed that justice required basic distributive fairness before we incorporated the personal prerogative, it seems odd that we would now think that there is no difference in the (derivative) justness of the final distributions in these two scenarios. But this latter conclusion is precisely the conclusion that the prerogative-modified coercion view commits us to. When we are restricted to identifying justice with principles of justified coercion we are forced to acknowledge as equally just any distribution that arises through action that is consistent with these principles, no matter
how unfair the result when judged from the impersonal standpoint. For much the same reason that I rejected the coercion view simpliciter, I therefore conclude that, far from being an improvement, the prerogative-modified coercion view merely highlights the flaws in this approach compared to the dual-component model.

There is reason to think that the prerogative-modified fairness view offers a more promising alternative. Since, on this view, the ideal of basic distributive fairness continues to be identified with justice, we retain our ability to criticise as unjust an unequal distribution of wealth that nevertheless arises consistently with the principles of justified coercion which allow people to pursue their own projects if they wish. However, this scenario raises a distinct problem of its own. If allowing people to pursue their own projects will inevitably lead to an increase in injustice, what justification can we give for allowing people to pursue their own projects free from coercive interference? It seems that those who do not receive what they are due as a matter of justice (according to the ideal of basic distributive fairness) have a pretty powerful complaint against those who choose not to act so as to realise a just distribution and instead pursue their personal projects. As I have already explained (in section V of chapter 5), one way of explaining what is going on here is to recognise that the claims that people have to pursue their own projects free (to some extent) from coercive interference are themselves claims about what people are due as a matter of justice. By labelling these claims as claims of justice we can make sense of the decision to respect them, even when they conflict with the claims of justice that others have in virtue of the ideal of basic distributive fairness. Of course, this move is unavailable to the prerogative-modified fairness view, since on this view ‘justice’ only refers to basic distributive fairness. This makes it much harder to explain how claims to freedom from interference could have priority (a priority that the prerogative-modified fairness view endorses) over the genuine claims of justice made on behalf of those who have not received what they should according to the ideal of basic distributive fairness.

The solution to the problems that beset both attempts to incorporate the personal prerogative into a single-component view of justice lies in a return to the dual-
component model. Because the dual-component model retains the ideal of basic distributive fairness as a distinct component, it is capable of criticising as less than fully just a distribution that arises through the not unjust exercise of people’s non-optimal (from the impersonal point of view) choices. And because the dual-component model also retains the principles of justified coercion as a distinct component, it is capable of explaining why the claims of some to the freedom to make non-optimal choices plausibly override (or at least have equal weight to) the claims of others to receive what they are due from the impersonal point of view. The superiority of the dual-component model of justice over the single-component models is clear. Even when we try to make the latter views more plausible by building a personal prerogative into them, they are still vulnerable to the same problems that the dual-component model is specifically designed to avoid.

VI. Conclusion

The aim of this chapter has been to set out the formal features of the dual-component model in more detail and to provide a preliminary rationale for why these features look the way they do. The two separate components of the model – the distributive component and the interactional component – each consist of a principle or a set of principles that apply, respectively, to distributions and actions. Ultimately, a distribution can only be considered fully just when the principles of both components are satisfied. As well as its ability to explain our intuitive sense that an unjust distribution does not necessarily imply remedial duties on everyone to eradicate the injustice, the dual-component model is also recommended by its ability to provide a plausible theoretical framework in which to incorporate the distinction between the personal and the impersonal moral standpoint, at least when this distinction is applied to matters of justice. I argued that the distributive component can be understood as a response to the claims of justice that arise from the impersonal moral standpoint, and that the interactional component can be understood as a response to the claims of justice that arise from the personal moral standpoint. In chapter 8 I discuss two detailed examples with the aim of highlighting some of the considerations to which, I argue, the
interactional component should be sensitive. In the next chapter I offer a more detailed
defence a particular conception of the distributive component.
(7) The Distributive Component of Justice

I. Introduction

The task of the present chapter is to defend a particular conception of the distributive component of justice. I argue that the distributive component consists of a single principle: the principle of equality of opportunity for well-being. Thus a distribution is just according to the distributive component of justice when each person has an effective opportunity to achieve a level of well-being equal to the level of well-being that is effectively achievable by others. A distribution is unjust either when people currently face unequal opportunities for well-being, or when the unequal well-being they have actually achieved reflects the unequal opportunities they faced in the past.

The principle of equality of opportunity for well-being has two distinct aspects. The first aspect states how the thing to be distributed should be distributed (i.e. equally), the second aspect states what the thing-to-be-distributed actually is (i.e. opportunity for well-being). I shall refer to the former as the criterion of distribution and the latter as the currency of distribution. In elaborating and defending the principle of equality of opportunity for well-being I shall deal with these two aspects of the principle separately.

To begin with I make a few preliminary remarks in section II about the scope of the principle that constitutes the distributive component. Then, in sections III and IV I turn to the distribution question. In section III I argue that ‘maximising’ principles (as opposed to, say, egalitarian or sufficientarian principles) are unsuited to the distributive component because these principles cannot usefully be interpreted in a teleological sense. In section IV I raise some objections to the general approach known as ‘sufficientarianism’, with the aim being to bolster the case for adopting an egalitarian principle instead. I then turn in sections V and VI to the currency question. In section V I argue for the superiority of welfarism over resourcism, but concede that welfarists must focus on opportunities rather than outcomes if their view is to escape the so-

174 Throughout the chapter I use the term ‘well-being’ rather than ‘welfare’ simply to avoid any hedonic connotations the latter phrase might be thought to have.
II. The scope of the distributive component

In chapters 2 and 3 I demonstrated that the most promising attempts to defend the domestic scope restriction (the restriction of the scope of strong norms of justice to contemporary nation-states) do not succeed on their own terms. Of course, since these were essentially negative arguments, they provided no positive support for the claim that the scope of justice is unbounded (i.e. universal or global in scope). In order to provide some justification for this latter idea, my strategy was to start putting in place the foundations for a very different way of interpreting the concept of distributive justice. Now these foundations are in place we should be able to see what was not obvious before, namely, that the scope of the principle which constitutes the distributive component of justice is inherently universal in scope. The reason for this lies in the direct association of the distributive component of justice with the impersonal moral standpoint. From the personal standpoint the individual, familial, cultural, social, political, and geographical differences between us loom large. But from the impersonal moral standpoint the things which distinguish us from each other are far less obvious or important than the things we share in common. When we ask what justice demands from a combined personal-impersonal perspective, as most single-component theories of justice try to do, then it is natural that the differences that loom large from the personal perspective should affect the answer we come up with. But
when the question of justice is considered from the impersonal perspective on its own, it is much harder to see why the contingencies of the country we were born into, or the family we were brought up in, or the individual talents and abilities which make us who we are, should affect what we are entitled to.

The distinction between the impersonal and the personal moral standpoints should not be confused with a different distinction, emphasised by Miller, between, on the one hand, our status as ‘needy and vulnerable creatures’, and on the other hand, as ‘choosing agents who must take responsibility for their own lives’. Miller uses this distinction to generate a sophisticated theory of global justice which combines into one theory our dual role as recipients and agents of justice. As recipients of justice we have a right to certain things simply in virtue of our nature as needy and vulnerable creatures. As agents of justice, on the other hand, we have a duty to take responsibility for our mistakes and to respond to injustice when we perceive it. Miller’s recipient/agent distinction has played a vital role in helping me to see how to develop the dual-component model. But the recipient/agent distinction and the impersonal/personal distinction are clearly different. Our neediness and vulnerability may be among the most prominent of our characteristics visible from the impersonal standpoint, but they are not the only aspects of our nature that are relevant from that perspective. Although in formulating the distributive component of justice we abstract away from questions about how we might realise the ideal of basic distributive fairness, this should not be taken to imply that the ideal itself must be constructed on the assumption that human beings are helpless creatures, unable to do anything for themselves. Even the distributive component taken on its own (i.e. independently of the interactional component) must, if it is to remain plausible, reflect the fact that people are capable of taking at least partial responsibility for their own lives.

As I flesh out the content of the distributive component below, I shall be guided by the thought that, when a person has less (of the currency of distribution) than he should (according to the criterion of distribution), this constitutes an unfair

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175 Miller, National Responsibility and Global Justice, pp.5-6.
situation, and hence an injustice, no matter where on earth the person in question resides. It should be clear from this that the justification for, and subsequent contentiousness of, the claim about the universal scope of the distributive component depends to a large extent on how convincing an account is offered of the currency and criterion of distribution that form the content of the distributive component. It is to this task that I now turn.

III. The distribution question: narrowing the field

The ‘distribution’ question and the ‘currency’ question are obviously closely linked. Indeed, it might be thought that there is a problem of circularity here, since it seems likely that the plausibility of the answer we give to either one of these questions will depend to a considerable extent on the answer we give to the other. How do we know that a just distribution is an equal distribution until we know what the currency of justice is? Yet how can we be confident that we know what the currency of justice is until we know how it should be distributed? While this justificatory circularity is a problem, I do not think it is an intractable one. One way in which we can begin to address it is by using the form of the dual-component model to narrow down the field of possible answers to the distribution question. In order to do this a brief digression is in order.

In an influential paper, Derek Parfit distinguishes between ‘teleological’ interpretations of equality and ‘deontological’ interpretations of equality. Importantly for our purposes, Parfit also acknowledges that the same teleological/deontological distinction can be applied to theories of justice, as well as to theories of equality. According to the teleological view, (the telic view, for short) judgements of justice and injustice are applicable to states of affairs, even if there is nothing any rational agent could have done to avoid them. In contrast, according to the deontological view, (the

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177 ‘Those who take [the Telic View] do not merely think that...inequality is bad. They often speak of natural injustice. On their view, it is unjust or unfair that some people are born less able, or less healthy, than others. Similarly, it is unfair if nature bestows on some richer resources. Talk of unfairness here is sometimes claimed to make no sense. I believe it does make sense.’ Parfit, ‘Equality or Priority?’, fn.17, p.122.
deontic view, for short) if nothing can be or could have been done to avoid some state of affairs, then we cannot describe the resulting situation as unjust. To put it another way, on the deontic view but not the telic view, injustice ‘necessarily involves wrongdoing’. Since the principle which constitutes the distributive component applies directly to distributions, it can be interpreted as an example of Parfit’s telic approach. Since the principles which constitute the interactional component apply to actions, it can be interpreted as an example of Parfit’s deontic approach.

Regardless of its content, then, we know that the distributive component of justice is constituted by a telic principle (or principles). This being the case, it is worth asking whether there are any candidate principles that we can rule out for the purely formal reason that they cannot be coherently and/or plausibly interpreted in a telic sense. I shall consider three common types of distributive principle: maximising principles; sufficientarian principles; and egalitarian principles. I shall argue that only the latter two can be coherently and plausibly interpreted in a telic sense and, therefore, that the principle that constitutes the distributive component of justice cannot be a maximising principle.

We ‘interpret a principle in a telic sense’ when we use it to assess the justness of distributions directly (i.e. without reference to the intrinsic justness of the actions or institutions that brought the distribution about). In order to do this (i.e. use a principle to assess the justice of a distribution directly) we must use the principle to generate a hypothetical ‘ideal distribution’ against which the distribution(s) whose justness we are interested in assessing can be compared. The ideal distributions that are generated in

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178 Parfit, ‘Equality or Priority?’, p.90.
179 Parfit, ‘Equality or Priority?’, p.90 (emphasis added).
180 I shall not be conducting any separate analyses of various other types of principle which might conceivably be interpreted in a telic sense, and which are commonly associated with justice: such as principles of need, desert or merit. This is partly for reasons of space. But more importantly, it is because much of what I say about the three main types of principle that I do discuss applies to these other kinds of principle as well. For instance, the most common versions of the principle of need are sufficientarian in nature, and so a discussion of sufficientarianism is relevant to the most common need-based principles. And while it is true that the principle of desert and the principle of merit are not normally thought to have anything in common with the principle of equality, if we take a very loose view of what counts as an egalitarian principle then there is a sense in which the desert- and merit-based principles can be interpreted along egalitarian lines, for what they essentially say is, ‘distribute equally, unless people are unequally deserving or unequally meritorious’. Few people dispute the egalitarian pedigree of the luck-egalitarian principle, and yet that principle has more or less the same form as the previous two: ‘distribute equally, unless people have chosen unequally’.
this way come in two varieties, depending on the type of principle that is used to
generate them. The first variety of ideal distribution is what I shall call an ‘historical
ideal’. Historical ideals are generated by asking how things might have turned out had
past actions/events/institutions gone a certain way. The second variety of ideal
distribution I shall refer to as a ‘transcendental ideal’. Transcendental ideals, as the
name suggests, are not worked out relative to any particular historical conditions but,
instead, are valid in all historical contexts. Principles that generate historical ideals can
only be usefully employed in a telic sense in an extremely narrow range of cases.
Principles that generate transcendental ideals, on the other hand, can be usefully used in
a telic sense in all circumstances.

To see what I mean, consider the kind of principles I referred to above as
‘maximising’ principles. Maximising principles – such as the principle of utility, the
Rawlsian difference principle, or Arneson’s ‘responsibility-catering prioritarian’
principle\(^\text{181}\) – typically apply to actions or institutions. They require that actions are to
be taken or institutions are to be structured so as to maximise the weighted/non-
weighted sum or weighted/non-weighted average amount of the currency of justice,
whatever it may be. Now, however, we want to use a maximising principle in an
atypical way, namely, to assess the justness of a distribution directly. Imagine, then, that
our aim is to assess the justness of distribution \(D\). Our first task is to use the
maximising principle in question to generate an ideal distribution against which to
compare \(D\) in order to determine how just it is. How might we go about doing this?

What we can’t do is compare \(D\) to some antecedently given ideal distribution
based on the principle in question. If we ask in the abstract what an ideally just
distribution looks like according to a maximising principle, then, as Rawls himself
acknowledges, there simply is no answer to this question.\(^\text{182}\) Maximising principles are

\(^{181}\) ‘[Arneson’s responsibility-catering] priorititarianism holds that institutions and practices should be
set and actions chosen to maximize moral value, with the stipulation that the moral value of obtaining
a benefit (avoiding a loss) for a person is greater, the greater the well-being gain that the person
would get from it (the smaller the loss in well-being), and greater, the lower the person's lifetime
expectation of well-being prior to receipt of the benefit (loss)’. R. Arneson, 'Luck Egalitarianism and

\(^{182}\) ‘A distribution cannot be judged in isolation from the system of which it is the outcome...If it is
asked in the abstract whether one distribution of a given stock of things to definite individuals with
therefore unable to generate transcendental ideals. The alternative is to use the maximising principle to generate an historical ideal against which to compare D. We do this by asking what D might have looked like had all past actions been such as to maximise the currency of justice. Now, if the actual historical circumstances underlying D (i.e. the series of actions or the shape of the institutions that gave rise to D) is brief and simple enough, we may well be in a position to specify the content of the historical ideal according to the maximising principle. It is easy enough to think of trivial examples in which the small piece of cake, or the small number of apples, etc., that everyone actually ended up receiving might have been larger by some specified amount if someone had acted differently during the process of making/harvesting/distributing the cake/apples/etc.. I do not deny, therefore, that historical ideals – and, hence, the principles that generate them – can be useful in certain circumstances. When, however, it comes to assessing the justness of the distribution of goods across whole societies, with hundreds or thousands of years of history, or indeed across the world as a whole, the usefulness of historical ideals is far from obvious. Even if we take the currency of justice to be something (relatively) simple like financial wealth and income, there is no way (at least, no way that is accessible to non-godlike beings) of navigating our way through the relevant counterfactuals in order to work out what the ideally just distribution, according to a wealth-maximising principle, would look like. Possible answers to the question ‘How much more wealth might there be now if all past actions had been wealth maximising?’ start at ‘zero’ and then continue upwards to some radically unknowable amount. This is, clearly, no help to us at all in our stated task of assessing the justness of the current distribution of wealth.

Now consider egalitarian and sufficientarian principles. When it comes to interpreting these principles in a telic sense there is an important difference between known desires and preferences is better than another, then there is simply no answer to this question’. Rawls, *A Theory of Justice*, p.76.

183 At least, this is true in cases that are of any interest. It is technically possible that in situations in which we have a finite stock of divisible goods and a finite number of people then a maximising principle that specifically refers to those goods can be used to generate a transcendental ideal. But since these strict conditions are rarely met in any real-life situation I shall ignore this wrinkle and continue to talk as if maximising principles are unable to generate transcendental ideals.
them and the principles we have discussed so far. The difference is that egalitarian and sufficientarian principles can be used to specify transcendental ideals of justice in distribution. Imagine once again that our task is to assess the justness of distribution D but that we now want to assess how just it is according to either a principle of equality or a principle of sufficiency. Now when we ask in the abstract what an ideally just distribution looks like, we are able to give an answer: an ideally just distribution according to the principle of equality is one in which everyone has an equal amount of the currency of justice; an ideally just distribution according to the principle of sufficiency is one in which the amount of the currency of justice that everyone has is no less than the sufficiency threshold specified by the principle. By comparing these ideal distributions with the actual distribution D we can work out how just or unjust D is according to the relevant principle.

Now, it might be objected that the job of comparing D with any particular transcendently ideal distribution will itself often require a great deal of empirical work, and that, since such work is highly vulnerable to mistakes, we can infer that transcendental ideals are no more useful for determining the justness of a complex distribution than historical ideals. The first part of this objection is absolutely right, but the inference is mistaken. It is no objection to the point I’m making here that, in applying egalitarian and sufficientarian principles, a great deal of empirical work will have to be done, and that mistakes will inevitably be made. Every (plausible) fundamental principle of justice, whether applied in a telic or a deontic sense, will require a certain amount of difficult empirical work to be done. And mistakes will, of course, often be made. The reason why maximising principles are not suited to a telic interpretation is not that applying them requires difficult empirical work but, rather, because the ideals that these principles might generate are themselves radically inaccessible to us. We can only begin to work out how closely the actual distribution matches the ideal distribution when we have that ideal in hand. Hence, if the dual-component model is indeed the correct way of thinking about justice, we can rule out
all of these principles as possible candidates for the content of the distributive component.

**IV. The distribution question: egalitarianism versus sufficientarianism**

Having shown why we can reject maximising principles as potential candidates for the content of the distributive component, I will now suggest why we should favour egalitarian principles over sufficientarian principles. Since sufficientarian principles are perfectly amenable to a telic interpretation they cannot be ruled out in the same way as maximising principles. There are, however, still some formal aspects of the dual-component model that explain why sufficientarian principles are less attractive as candidates for the content of the distributive component than egalitarian principles. Moreover there are some powerful substantive objections that have been made to the doctrine of sufficiency which further bolster the case for their rejection. I shall look first at these substantive objections before explaining what formal grounds we have for rejecting sufficientarianism.

Sufficientarianism, in both its deontic and telic versions, holds that the distribution of the currency of justice only generates concerns of (in)justice when the amount of the currency of justice that some people have falls below a certain (absolute or relative) level. How the currency of distribution is distributed above this level may or may not, depending on the particular view in question, raise moral concerns of some other type, but it no longer registers as a concern of justice.\(^{184}\) There is certainly something to be said for this idea. Intuitively, at least, there does seem to be a difference of type, and not just a difference of degree, in the inequalities that pertain between, on the one hand, a severely deprived person and a well-off person, and, on

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\(^{184}\) Andrew Mason refers to this as the ‘extreme’ form of the sufficiency view, see, A. Mason, *Levelling the Playing Field: The Idea of Equal Opportunity and its Place in Egalitarian Thought*, (Oxford: Oxford University Press, 2006), p.122. The ‘moderate’ form, which Mason thinks is more plausible, eschews the absolute priority which the extreme view gives to those below the threshold and holds that, sometimes, if the benefits are great enough and the number of people who might benefit is big enough, those above the threshold may be favoured over those below it. It is hard to see how Mason’s ‘moderate’ sufficiency view differs in any significant way from prioritarianism. Not only that, but Mason himself admits that we could recast the ‘extreme’ view as holding that, although we still have a reason to care about how well-off people are above the threshold, it only becomes a matter of justice when people are below the threshold. This is the version of sufficiency that interests me here.
the other hand, a well-off person and a very well-off person. Sufficientarianism seems better able to capture this idea than egalitarianism.\textsuperscript{185} Yet, as superficially plausible as they sound, the problems with sufficientarian views begin as soon as we try to specify the details of the view with more precision.

How do we decide, for instance, what the sufficiency threshold should be? Well, in response to the asymmetry between suffering and happiness (see the last footnote) we might decide to set the threshold at a relatively low point – say, the point at which people’s basic needs are catered for.\textsuperscript{186} One advantage of having a fairly minimal threshold like this, particularly when applied globally, is that it is (a) easier to justify than more ambitious thresholds (since it refers to needs that we all share) and therefore (b) more likely to generate its own support in practice.\textsuperscript{187} The problem, however, is that most people also think that questions of justice are raised by inequalities above the level of basic need satisfaction and, therefore, that the sufficiency threshold must include more than merely basic need satisfaction. I shall call this the ‘incompleteness objection’ to sufficientarianism.

If we set the threshold higher than the level at which basic needs are satisfied, say, at the level at which every person is able to lead a ‘decent’\textsuperscript{188} life, it seems we can at least reduce the force of the incompleteness objection that was raised against the basic needs view. Faced with the choice, we care less about a gain to someone who is already

\textsuperscript{185} The intuitive appeal of this idea may be explained by Karl Popper’s remark that there is ‘no symmetry between suffering and happiness, or between pain and pleasure…human suffering makes a direct moral appeal, namely, the appeal for help, while there is no similar call to increase the happiness of a man who is doing well anyway’. Popper, quoted in, P. Casal, ‘Why Sufficiency Is Not Enough’,\textit{Ethics}, 117 (2) (2007), 296-326, p.297.

\textsuperscript{186} This is David Miller’s view, about which I say more below. Miller argues that the satisfaction of basic needs is necessary for a person to be able to lead a ‘minimally decent life’, Miller, \textit{National Responsibility and Global Justice}, pp.181-2. According to Miller, basic needs are to be distinguished from \textit{societal} needs. The former are ‘to be understood as the conditions for a decent life in \textit{any} society, and the latter as the more expansive set of requirements for a decent life in the particular society to which a person belongs’, (p.182, emphasis in original). Since, logically speaking, the conditions for a decent life in \textit{any} society cannot be any worse than the conditions for a decent life in \textit{any particular} society, I assume what Miller means here is that basic needs are the conditions for a \textit{minimally} decent life in \textit{any} society whereas societal needs are the conditions for a (more than minimally) decent life in any society. This distinction is important for understanding what I say in the next paragraph where I distinguish between a basic needs threshold and a decent life threshold. (Although it is worth noting that the two thresholds may coincide under certain conditions in particular societies).

\textsuperscript{187} Casal refers to (a) and (b) together as the ‘allegiance argument’ for sufficientarianism, Casal, ‘Why Sufficiency Is Not Enough’, p.305.

\textsuperscript{188} C.f. Mason, \textit{Levelling the Playing Field}, p.115; Christiano, \textit{The Constitution of Equality}, p.27.
living a decent life than we do about a gain to someone whose basic needs are satisfied but who is not yet living a decent life. Of course, one might now object to the ‘decent life’ view on the different grounds that it is much harder to reach agreement on what constitutes a ‘decent’ life than it is to reach agreement on what constitutes the fulfilment of basic needs.\(^{189}\) I shall assume, however, that this objection can in principle be overcome. The more serious problem is that the decent life view still fails to fully deal with the incompleteness objection. If two well-paid and equally well-off lecturers are both competing for an even more lucrative professorship, it still seems highly relevant from the point of view of *justice* how the appointing committee decide who should get the job. Even if both lecturers are already living what anyone would consider to be decent lives, we would surely still think it unjust if the person who was awarded the professorship was awarded it on the grounds that he is married to a member of the committee, rather than through a fair and impartial process. This example suggests that the distribution of luxuries – defined in a broad sense as those things which a person would like but which are not necessary for a decent life – is a matter of justice.

For those who feel the force of the incompleteness objection when applied to the distribution of luxuries, but who nevertheless continue to think that the idea of sufficiency has an important role to play in the theory of justice, there are two possible responses. The first is to raise the sufficiency threshold as high as it will go, thereby ensuring that every distribution short of the conceivable maximum raises concerns of justice. This ‘maximal sufficiency’ view obviously avoids the incompleteness objection, since it makes it logically impossible for concerns of justice to arise above the threshold (i.e. the point at which the amount of the currency of justice held by each person could not possibly be any higher).\(^{190}\) However, this solution to the incompleteness objection comes at a high price. First, it only applies to views according to which it makes sense to talk about a ‘maximum’ holding of the currency of justice. Thus, while there might, for example, be a logical limit to the level of well-being achievable by each person, there


\(^{190}\) Christiano, *The Constitution of Equality*, p.27.
is no logical limit to the amount of money they can have. Second, even if some views do admit of the idea of a maximum threshold, it seems unlikely that we will be able to specify what such a maximum looks like, and even less likely that we will know when we have reached it; the idea of perfect bliss is something that is hard to put into concrete terms. Finally, even if there are some plausible candidate currencies that manage to deal with the first two concerns, it seems clear that we will need auxiliary principles to guide us in assessing injustices that occur below the threshold. As Christiano says, ‘it is important to know what one must do when there are conflicts of interests among those who do not reach [the threshold] of sufficiency’. Since every conflict of interest we are likely to address in the real world will be below the threshold of maximal sufficiency it would appear that these ‘auxiliary’ principles will, in practice, be the only ones that are relevant. In the light of these problems I conclude that adopting the maximal sufficiency approach is too high a price to pay in order to escape the incompleteness objection.

There is, in any case, a second strategy open to the committed sufficientarian who is sympathetic to the incompleteness objection. Rather than combine a maximal sufficiency threshold with other principles of justice that regulate distribution below the threshold, this second strategy is to combine a more plausible minimal sufficiency threshold with other principles that regulate distribution above the threshold. I have no general argument against this ‘hybrid’ strategy. Instead, what I shall do in the rest of this section is present some considerations which suggest that if the universal luck-egalitarian principle I am attempting to defend in this chapter is correct, then justice is probably not a hybrid ideal.

Consider, then, the hybrid view referred to by Paula Casal as ‘sufficiency-constrained luck-egalitarianism’. According to the standard (i.e. non-sufficiency-constrained) luck-egalitarian view, ‘justice places no limits on the extent to which individuals can be held responsible for their voluntary choices’. The implication is

that there is no injustice if severely deprived people are left to suffer the effects of such deprivation as long as their situation is a result of their own free choice. Some critics find this implication unacceptable. In response, Casal suggests that sufficiency-constrained luck egalitarianism avoids the ‘unacceptable outcomes objection’ by combining the standard luck-egalitarian claim ‘that some inequalities in outcome may arise justly’ with the denial of the claim that a person’s ‘having less than enough is ever justifiable by appeal to voluntary choice’.

Although I am sympathetic to the motivation underlying Casal’s hybrid view, I am also sceptical that it presents a genuine and coherent alternative to the standard luck-egalitarian view. As Casal is aware, once we accept the luck-egalitarian idea that ‘choice-generated inequality’ is just, it is not easy to provide a coherent and convincing explanation for why ‘choice-generated insufficiency’ is unjust. Indeed, if the standard luck-egalitarian principle fully explains the justice of a choice-generated inequality between someone who is living a life of pure bliss and someone is living just above the sufficiency threshold, it is implausible to think that it would provide no justification for a choice generated inequality between the latter person and someone who was living just below the sufficiency threshold.

In any case, the concerns raised by the unacceptable outcomes objection can be dealt with in other ways. One such alternative, which I think is more promising than Casal’s hybrid proposal, is to invoke the distinction between justice and morality and say that, although it is not unjust to deny assistance to people who are responsible for their own deprivation, it is nevertheless immoral. Such a move would allow us to maintain a consistent and thoroughgoing luck-egalitarian view about justice while going at least some of the way towards addressing the unacceptable outcomes objection. Another possibility is to point out that much of the force of the unacceptable outcomes objection

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197 Casal, ‘Why Sufficiency Is Not Enough’, p.322. Casal does in fact think an explanation exists, but she does not defend her proposed solution in any detail and I shall not try and reconstruct her view here.
objection to luck-egalitarianism depends on assuming an implausible and simplistic version of the latter view which few if any of its proponents actually hold. As Samuel Scheffler has pointed out, most luck-egalitarians think that:

…the hallmark of [voluntary] choices is, roughly, that they exhibit certain characteristic relations to the agent’s deliberations, or that they are sensitive in specifiable ways to the agent’s values and preferences, or that they are free of certain specific forms of causal interference, or that they possess some combination of these features.\textsuperscript{198}

According to these kinds of ‘compatibilist’ conceptions of voluntary choice referred to by Scheffler, the conditions under which choices and decisions must be made in order to qualify as ‘inequality-justifying’ are likely to be numerous and complex. This is, of course, a drawback of luck-egalitarianism when it comes to its application in the real world. But, at least in theory, it is one of its strengths. It means that there is a great deal of scope to explain why ‘choices’ which lead to severe deprivation are not in fact the kinds of choices which qualify as inequality-justifying. Of course, the question of which conception of voluntary choice we should plug into our theory of luck-egalitarianism is a difficult one (and it is not one I shall attempt to address here). It is enough to notice that the force of the unacceptable outcomes objection depends to a large extent on the conception of voluntary choice that is adopted, and that there are some instances – say, a mountain climber who, against a background of relative scarcity, repeatedly goes uninsured and unprepared on numerous mountain expeditions even though he knows that cost of rescue operations are extremely high – in which most people would surely agree that the relevant conditions of voluntary choice have been met so that it would not be unjust to leave someone to suffer extreme disadvantage as a result of his selfish behaviour.

The problems with Casal’s hybrid view suggest that if some type of universal luck-egalitarian principle does indeed form part or all of the content of the distributive component of justice, then this likely excludes the principle of sufficiency as a potential addition to that content. However, this leaves open the possibility that the distributive

component might be constituted by a *non-universal* luck-egalitarian principle in combination with a sufficientarian principle. Such a view would be very similar to the one proposed by David Miller. Miller’s view avoids the problems that beset Casal’s view because, unlike Casal, he does not claim that sufficiency always overrides (a non-luck-egalitarian version of) equality whenever the two conflict. Instead, he argues that the two principles have a different *scope* of application, with egalitarian norms applying to distributions within nation-states, and sufficientarian norms applying beyond the boundaries of nation-states. According to this ‘split-level’ view of justice, it is conceivable that a scope-restricted luck-egalitarian principle that only applies within nation-states could be coherently combined with a sufficientarian principle that applies globally, and this would mean that the principle of sufficiency does have a role to play in the distributive component of justice after all.

The reasons I think we have for rejecting Miller-inspired split-level views should already be clear. First, as I argued in chapters 2 and 3, I believe that statist and nationalist attempts to restrict the scope of egalitarian justice neither are, nor can be, successful. Since Miller invokes both of these approaches in the course of justifying his wider view, we have good reason to doubt its cogency. Of course, by rejecting statist and nationalist attempts to restrict the scope of justice what we are effectively doing is opening ourselves up again to the global justice trilemma. As I explained in the introduction, the advantage of statist and/or nationalist positions is that they appear to be able to explain why it is that, although most people think the global distribution is radically unjust, they also think that relatively well-off individuals in the developed world do not have hugely demanding duties to rectify the situation. If we reject these explanations, we must be prepared either to declare common sense intuition wrong, or to put a new argument in its place.

This new argument is provided by the dual-component model. The first of the two common sense intuitions listed above, namely, that the global distribution is radically unjust, reflects a pure and direct concern with distributive fairness and, hence, with the distributive component of justice, which, recall, seeks to answer the question,
‘when are goods distributed fairly?’ Providing an objective and impartial answer to this question demands that we view things primarily from an impersonal standpoint, and, as I mentioned in section II above, this in turn builds a presumption of universalism into the distributive component from the start. The second of the two common sense intuitions referred to above, namely, that well-off individuals do not have hugely demanding duties to rectify global injustice, reflects a concern with the moral limits of what can be demanded of people in the name of distributive fairness. This is the concern that grounds the interactional component of justice, which seeks to answer the question, ‘how can we justly achieve a fair distribution?’ The latter question, unlike the former, requires close attention to be paid to the personal standpoint. Different ways of moving from an objectively unfair distribution to an objectively fair distribution will look more or less identical from the impersonal perspective, but they will each have wildly differing impacts, both in terms of their meaning and in terms of their effects, when viewed from the perspective of the particular individuals affected. The interactional component helps us to decide which of these moves towards an impersonally just distribution can be justified to real people.

Miller’s split-level view does a particularly good job of explaining the intuition that the duties owed by those who reside within a particular institutional scheme to those outside the scheme are less stringent than the duties these same people owe to those inside the scheme. But this does not count against the dual-component model because it too can explain this intuition by appealing to the restrictions grounded in the interactional component on what can be justly demanded, in the name of egalitarian fairness, of people who share different institutional schemes. Where Miller’s split-level view does not do so well is in explaining our intuitions about distributive injustices that arise between states, when this question is detached from the practical issue of what we (or anyone else) should do about it. Consider, for example, a situation in which two similar individuals who share similar aspirations are born either side of a state border and, as a result, are provided with wildly divergent levels of effective opportunity to pursue their plans. As long as the ‘internal’ distribution of opportunity within each state
is not too unequal, and as long as neither individual falls below the sufficiency threshold of basic needs, then, according to Miller’s view, there is no injustice here. I think most people’s intuitions here would say that there is an injustice here, even if they would be reluctant to say that it is their duty to remedy it. Of course, this is easily explained on the dual-component model, because the unjust distribution of opportunities between the two individuals is a separate matter from the question of whose responsibility (if anyone’s) it is to remedy that injustice.

**V. The currency question: well-being or resources?**

While my rejection of various non-egalitarian candidates for the role of the constitutive principle of the distributive component has obviously not been comprehensive, I hope it has been comprehensive enough to allow me to assume an egalitarian answer to the distribution question and move on to address the further question: an equal distribution of what? I have already stated that the principle I aim to defend is the luck-egalitarian principle of equality of opportunity for well-being. In this section I explain why I think justice requires us to focus on the distribution of opportunity for well-being. In the next section I outline in more detail what I take ‘well-being’ to be.

Distributive justice is concerned with the distribution of things that are valuable to people. And although it is conceivable that some of the things that are valuable to us are valuable to us independently of their affect on our well-being, it seems clear that most of the things that are valuable to us are valuable to us because they increase, or enable us to increase, our well-being. It would appear that we have good reason, then, to refer to well-being directly in the formulation of the currency of justice. Some writers, however, have rejected this conclusion. They argue that there are a number of problems facing any attempt to refer directly to well-being in the formulation of the currency of justice:

1) The Justificatory Problem: There is no agreement about what the correct standard of well-being is.
2) The Practical Problem: Even if we could agree on a single standard of well-being, it would be impossible to use it in order to measure the distribution of well-being.

3) The Normative Problem: Even if a standard of well-being did exist which could be used to measure the distribution of well-being, there are independent reasons for rejecting any attempt to make justice sensitive to well-being.

The issues raised by the justificatory problem are much too large to deal with satisfactorily here. Of course, I hope that the conception of well-being I outline in the next section is plausible and attractive enough to convince most people that it is the correct conception, but this is no doubt a vain hope. It may well be that the only way to reach agreement on practical matters with those who, for one reason or another, prefer a different theory of well-being, is to resort to some less controversial currency the distribution of which we can all agree is at least of some, if not ultimate, importance from the standpoint of justice. While this kind of compromise is obviously not ideal from the point of view of anyone whose preferred metric is different from the metric that ends up being adopted, neither is it as much of a concession as it may seem. For recall that the distributive component of justice is not a direct source of duties of justice. Instead, it is a source of *reasons* of justice that only become duties once they have been filtered through the principles that constitute the interactional component. The practical requirements that issue from the specification of the distributive ideal are thus mediated in a way that is likely to diminish both the strength and the importance of any disagreement over the content of the ideal. And in any case, I take it that the fact that reaching agreement for practical purposes may require compromise does not automatically entail the pointlessness of the theoretical exercise of trying to identify the correct theory of well-being.

I turn then to what I called above the ‘practical problem’, of which there are two different versions. The first version is conceptual. It holds that it is conceptually
impossible to make interpersonal comparisons of well-being and, thus, impossible to determine the justness of the distribution of well-being, without relying on some independent notion of a fair distribution of something else (i.e. resources). The second version is empirical. It says that even if the conceptual problem can be overcome, it will still be impossible, as an empirical matter, to make accurate and reliable interpersonal comparisons of well-being. The best-known example of the conceptual version of the practical problem is Ronald Dworkin’s ‘fair shares objection’ to welfarist conceptions of equality. Since I provide a detailed response to Dworkin’s fair shares objection in the penultimate section of this chapter I shall say no more about it here.

The empirical version of the practical problem is largely a result of arguments put forward by Rawls. Rawls placed great importance on the stability of a conception of justice (essentially the idea that the principles of justice regulating a particular society should be able to maintain the willing support of citizens over time). According to Rawls, a conception of justice is much more likely to be stable if the principles that constitute that conception are such that it can be widely known and understood by members of the public that the society in which they live is being run in accordance with them. If this ‘publicity condition’ is to be met, argued Rawls, the principles of justice themselves must not be too opaque. That is, if the interpersonal comparisons that the principles require us to make in order to apply them are too difficult for citizens to make (roughly) by themselves, and it is too difficult for citizens to tell whether their co-citizens are acting in accordance with them, then a society run according to those principles is unlikely to be stable over an extended period of time. For this reason Rawls argued against basing interpersonal comparisons of individuals’ situations on hard-to-measure welfarist notions such as utility, and in favour of the much simpler and more manageable notion of primary goods.

Whether one is persuaded by Rawls’s argument against adopting ‘complex’ (welfarist) metrics largely depends on whether one accepts his claim that a conception of justice must satisfy a publicity requirement. Hopefully it is abundantly clear by now

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that I do not accept this claim, at least as it applies to the distributive component of justice. The publicity requirement is only a plausible requirement on principles of justice insofar as justice itself is conceived of as a more or less directly action-guiding (or potentially action-guiding) ideal. If our aim is to come up with a set of principles that people and states can follow directly then it obviously makes sense to keep these principles fairly simple in terms of what it takes to verify that people are complying with them. But the point of the distributive component of justice is emphatically not to provide us with a set of principles that people and states can follow directly. Unlike the principles of the interactional component we do not design or construct the content of the distributive component, we discover it. And it does not make sense to insist of a discovery that it satisfies an independent normative requirement.200

Having explained why the distributive component is immune to the empirical version of the practical problem, I now turn to address the third and final objection to welfarism; an objection I labelled above as the ‘normative problem’. The normative problem incorporates several distinct issues, only two of which I shall consider here. One well-known problem with welfarism, and welfare-egalitarianism in particular, is that it appears to recommend transferring resources to people whose welfare is below average even when the only reason for their welfare deficit is that they have been unable to satisfy their preference for (or increase their happiness by) harming others. Any theory which recommends that such ‘offensive tastes’ be taken into account when working out who is entitled to what as a matter of justice is often thought, plausibly enough, to be mistaken. However, as convincing as it is against certain simplistic versions of equality of well-being, the offensive tastes objection is not usually thought to cause too much of a problem for more sophisticated welfarist conceptions of justice, since it can be dealt with simply by modifying the view so that offensive tastes are ruled out from the ‘calculus of justice’ from the start.201 Now this piece of ad hoc modification of the welfarist view might be thought to diminish its appeal, but I do not think this

200 For a much more detailed argument against the publicity requirement, on which my own argument in this paragraph is based, see, Cohen, Rescuing Justice and Equality, chap.8.
worry is too serious. Although, as always, there will be some hard (i.e. borderline) cases, there will also be a wide range of cases in which it is clear that an individual’s tastes are relevantly ‘offensive’, and thus not to be included in the welfarist metric. What is true in any case is that the existence of hard cases is not enough to impugn the whole idea of welfarism, and so I shall follow other writers in moving on to more interesting, and more troublesome issues.

One such issue is the problem presented to welfarist views by the ‘expensive tastes objection’. Imagine two people, A and B, who are identical in all relevant respects except that A’s well-being is greater than B’s (however well-being is measured). Now consider two different explanations for the inequality in well-being between A and B. In the first scenario, B’s well-being suffers because he is struck by an unprecedented illness that causes him great pain. In the second scenario, B’s well-being suffers because although he purposefully cultivated a taste for haute cuisine in an attempt to get people to respect him more, B now not only no longer enjoys the cheaper food he used to enjoy, he commands no greater respect than he did before becoming a gourmand. The point of the expensive tastes objection is that even though, intuitively, the well-being inequality between A and B is only unjust in the first scenario and not in the second scenario, proponents of equality of well-being appear committed to denying this, and asserting instead that both inequalities are unjust. Well-being egalitarianism is fatally flawed because it lacks any sensitivity to the responsibility people have for their choices. Few if any people believe that compensation is called for in order to rectify the loss of well-being experienced by ‘autonomous snobs’ like B. Nor, for that matter, do people think compensation is in order for people who choose to be lazy, or people who freely choose to gamble and lose. As Cohen puts it: ‘People with expensive tastes could have chosen otherwise, and if and when they press for compensation, others are entitled to insist that they themselves bear the cost “of their lack of foresight or self-discipline”’.

While the expensive tastes objection raises a serious problem for straightforward conceptions of equality of well-being it is now well understood that it

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does not justify the complete abandonment of welfarism. At most, the expensive tastes objection demands that the focus of welfarism be shifted from a concern with the well-being that people actually achieve (an ‘outcome-focused’ view) to a concern with the opportunities people have to achieve well-being. Opportunity-based views have been espoused by a number of writers.203 Underlying all such views is the core ‘luck-egalitarian’ intuition that it is ‘morally fitting to hold individuals responsible for the foreseeable consequences of their voluntary choices, and in particular for that portion of these consequences that involves their own achievement of welfare or gain or loss of resources’.204 The attraction of opportunity-based views is that they allow us, when thinking about the justice of distributions, to maintain our focus on well-being while also remaining sensitive to the luck-egalitarian intuition.

The obvious prima facie attractiveness of opportunity-based views belies the many problems that confront any attempt to articulate a comprehensive account of them. Although I cannot here get into a detailed discussion of these problems I must say a few things to clarify the way in which I intend to interpret the concept of an opportunity.

The first thing to note is that opportunities vary hugely in their degree of effectiveness, from ‘purely formal’ at one end of the scale to ‘fully effective’ at the other. A person has a purely formal opportunity when, even though he is at liberty to take it (i.e. no one has the right to stop him taking it), it is physically impossible for him to do so. As Cohen says, ‘your [formal] opportunities are the same whether you are strong and clever or weak and stupid’.205 In contrast, a person has a fully effective opportunity when the only thing preventing him from taking it is his own will.206 To

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206 I shall remain agnostic on the issue of whether we do, in fact, have free will, as well as the issue of whether, if we do have free will, this is compatible with determinism. I take it to be a strength rather than a weakness of the opportunity for well-being view that, if hard determinism turns out to be true,
take a trivial example, imagine two people standing next to a tree in a park. Other things equal, (and assuming that there are no rules against climbing trees in the park) the person who is strong enough to easily lift his own body weight has a fully effective opportunity to climb the tree, whereas the person who cannot lift his own weight only has a formal opportunity to do the same. In between these two extremes are a range of more or less effective opportunities, whose effectiveness is determined by factors such as, say, the amount of money or the level of qualifications a person has. A person who can easily afford both the time and the money to go on a skiing holiday, for example, has a fully or near fully effective opportunity to go skiing, whereas a person who can afford to go skiing only if he sacrifices many other things that are of value to him, has an opportunity to go skiing that is much closer to being purely formal in nature.

Now, even in these relatively simple cases it is far from easy to determine precisely how ‘effective’ the opportunity in question is, and this might make the difficulties facing any wider attempt to determine the effectiveness of people’s opportunities for well-being seem insurmountable. It is certainly true that an accurate assessment of the effectiveness of the opportunities for well-being that people have will be extremely difficult to make. But there is reason to think that, over time, our ability to make these assessments will gradually improve. As long as the opportunity-based view in question is an egalitarian one – and the one I aim to defend is indeed egalitarian – the only differences in the outcomes achieved by different people vis-à-vis their well-being should be differences that are attributable to the choices that people have made, rather than any facts about their circumstances. In other words, it will be possible to make retrospective assessments of the opportunities faced by different people at some earlier time by working out what proportion of their current success (or failure) is attributable to (brute) luck and what proportion is attributable to the choices they have made.

Of course, a retrospective judgement like this is not particularly helpful to those people who, as it turns out, did not in fact face equally effective opportunities – the

and we do not in fact have free will even in a compatibilist sense, then its practical recommendations collapse into straightforward equality of welfare. If no one has any control over their actions then it would seem rather harsh to guarantee some people lower welfare than others by giving them a strictly equal share of resources.
best we can do is provide some form of compensation – and this is why I say that our ability to get it right from the start will improve over time. But someone might now object that this attempt to deal with the problem of measuring opportunities by resorting to retrospective judgements of the relative influence of brute luck and choice simply brings a new problem into view. The problem is that it is extremely difficult in practice to distinguish the part of a person’s success that reflects the opportunities he had from the part of his success that reflects both the effort and the choices he has made. If X is more successful than Y in securing his well-being, for instance, is this because he worked harder and made more sensible choices, or is it because his opportunities were better? In response it is worth emphasising that the fact that we are unable to detect the relative size of the influence of choice on a particular outcome does not entail that this influence is not there, still less does it entail that, if it is there, then we should ignore it. The mere difficulty of applying a conception of justice in practice does not count as a decisive consideration against its cogency in theory – if it did, then there would barely be a theory of justice left standing. Once a plausible and coherent conception has been worked out in theory the practical aim is to get as close as possible to achieving it. The fact that we cannot achieve a state of affairs in practice that would be, by the lights of the theory, perfection, does not prove that if we could achieve such a state of affairs it would not be perfect.

**VI. The currency question: an outline of a theory of well-being**

In the previous section I argued that, although there are numerous problems with the idea of referring directly to well-being in the formulation of the distributive component of justice, these problems are not serious enough to warrant abandoning the focus on well-being altogether. Combined with the earlier discussions in sections III and IV we now have solid grounds for thinking that the content of the distributive component of justice is given by the principle of equality of opportunity for well-being.

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207 See Cohen’s discussion of the inconsistent practical recommendations made by Rawls in response to the hard-to-detect influences of individual responsibility for taste, on the one hand, and individual effort on wealth and income, on the other. See, Cohen, ‘On the Currency of Egalitarian Justice’, pp.914-16.
There is, however, one more serious problem left to deal with, which I referred to in the previous section as the ‘fair shares objection’ to welfarism. In order to deal with the fair shares objection, I first need to flesh out in more detail what I take to be the correct account of well-being. After completing that task in this section I will go on in the next section to explain the fair shares objection and to demonstrate how the particular understanding of well-being I have outlined avoids it.

Since what I am ultimately interested in developing is a theory of distributive justice, not a theory of well-being, I shall not attempt to do anything more in this section than simply outline those aspects of a theory of well-being that are necessary to get the theory of justice off the ground – any more comprehensive discussion of well-being would be surplus to requirements. What I discuss in this section is therefore perhaps best described as a ‘theory of justice-relevant well-being’. Moreover, since it would take us too far beyond the scope of the current project to argue convincingly for a particular theory of justice-relevant well-being (from now on simply ‘theory of well-being’) I shall restrict myself to stipulating, rather than trying to defend, my preferred theory.

The theory of well-being I shall outline here is a form of preference-satisfaction theory. As this label suggests, preference-satisfaction theories hold that a person’s well-being depends on how well and how many of their preferences are satisfied. But preferences come in many different kinds. And, moreover, they can conflict with one another from within a single individual’s perspective. Our task, then, is to get clear on exactly what kind of preferences we should focus on from the perspective of justice, and how the problem of possible conflicts of preferences is to be avoided.

Turning, then, to the first part of our task, we can begin by noting that preferences can be distinguished according to whether they are:

1. Personal or Impersonal.
2. Ideal or Actual.
The apparently dichotomous nature of these distinctions is slightly misleading. Strictly speaking, the two terms that make up each of these dichotomies represent the opposite ends of a sliding scale. Where necessary I shall explain how the ‘sliding scale’ interpretation of these distinctions is relevant but, for simplicity’s sake, I shall for the most part continue to treat them as straightforward dichotomies.

Personal preferences are the preferences that people have ‘about their own experiences and situation’ (e.g. what career they want, where they want to live, who they want to live with, etc.), whereas impersonal preferences are preferences that people have about ‘things other than their own or other people’s lives or situations’ (e.g. the advance of scientific knowledge or the conservation of a certain species). At one end of the personal-impersonal scale are theories of justice that only take personal preferences into account. At the other end are theories that take the full range of personal and impersonal preferences into account. All theories, in other words, take personal preferences into account; what differentiates them is the extent to which they take impersonal preferences into account.

Without arguing the case I shall simply follow other writers in holding that, while assessments of comprehensive well-being may well need to take impersonal preference satisfaction into account, theories of justice-relevant well-being need only be concerned with (opportunities for) the satisfaction of personal preferences. It seems that most people who have given much attention to the problem have been struck by the thought that, insofar as we are concerned with what a person is due as a matter of justice, we are concerned with what happens to him in particular rather than with what happens to the wider world, even if what happens to the wider world is something he cares about very much. It also seems as if, for most people, this is as good a justification as is needed for excluding the consideration of impersonal preferences into account.

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209 See, for example, Otsuka, Libertarianism Without Inequality, p.25-9; Arneson, 'Equality and Equal Opportunity for Welfare', p.82.
from a justice-relevant theory of well-being. The prominent exception is Dworkin, who feels the need to produce a further argument to the effect that:

…insofar as government has either the right or the duty to make people equal, it has the right or the duty to make them equal in their personal situation or circumstances, including their political power, rather than in the degree to which their differing political convictions are accepted by the community, or in the degree to which their differing views of an ideal world are realised.\(^{210}\)

The structure of the dual-component model means it is not open to me to justify the personal preference restriction in the same way as Dworkin does by appealing to ‘the right or the duty’ that ‘government’ has to make people equal. Such an appeal might be thought to carry some weight when it comes to working out the content of the *interactional* component of justice, but the whole point of the *distributive* component is that it is supposed to tell us what people are due independently of any considerations about who has the right or duty to give it to them. And in any case, it seems clear that Dworkin’s appeal to the rights and duties of government relies on the deeper intuition noted above, namely, that insofar as we are concerned with what a person is due as a matter of justice, we are concerned with what happens to *him* rather than with what happens to the wider world, even if what happens to the wider world is something he cares very much about. For unless this deeper intuition is implicitly playing some underlying justificatory role in Dworkin’s argument, his appeal to the ‘rights and duties of government’ in order to explain the exclusion of impersonal preferences from the scope of welfarism is unpersuasive; if people are just as much due the opportunity to satisfy their impersonal preferences as they are due the opportunity to satisfy their personal preferences, then it is very hard to see why government would not be equally obliged to provide citizens with both.

I turn now to the ideal/actual distinction. Actual preferences are the preferences that real people currently have about their lives. The advantage that actual-preference-satisfaction theories have is that people’s actual preferences are empirically

\(^{210}\) Dworkin, *Sovereign Virtue*, p.28.
accessible, making it easier to work out when a distribution is just according to the preference-satisfaction metric. The problem with taking actual preferences as the raw material for a theory of well-being, however, is that they are notoriously vulnerable to distortions of various kinds, distortions which many writers have convincingly argued should not influence what people are entitled to as a matter of justice. The life plan of a repressed or abused housewife, for example, may include nothing more ambitious than the goal of successfully fulfilling her domestic duties and avoiding being beaten by her husband in the process. We do not and should not say that she has all she is entitled to as a matter of justice when these distorted preferences—and hence this distorted life plan—are satisfied.

The solution is to slide along the scale from actual preferences towards more ideal preferences. Ideal preferences can differ from actual preferences in a number of ways. Preferences become increasingly ideal when the information on which they are based is more complete, the conditions under which they are formed are more conducive to clear thinking, the historical background conditions behind a person’s preference-formation are freer from certain negative influences such as abuse and lack of education, and the person whose preferences they are makes fewer errors of reasoning when forming those preferences. The obvious problem with ideal-preference-satisfaction theories is that, unlike actual preferences, ideal preferences are not immediately accessible to empirical investigation. Often the best we can do is guess what people’s preferences would have been had the various ideal conditions been met. Our guesses are often likely to be wrong, and this means that what we think people are entitled to as a matter of justice will either be more or less than they are actually entitled to. Indeed, there may well be cases—perhaps the majority of cases—in which the most reliable way of getting as close as we can to working out what someone’s ideal preferences are is simply to take their actual preferences at face value. While regrettable, this is not as serious a problem as it sounds. There is a big difference between, on the one hand, claiming that satisfying actual preferences is always what justice demands, and, on the other hand, claiming that we should satisfy actual preferences when, and
only because, this is the best way of getting as close as we can to satisfying ideal preferences.

Now, it’s all very well to say that justice should be concerned with satisfying people’s ‘ideal personal preferences’, but it is hard to see what guidance this gives us in practice. Perhaps the biggest problem is that each person has a huge number of preferences and, often if not always, not all the preferences that a person has are satiable within a single life span. This may be simply because he has too many preferences. A person’s preferences may include a thousand different activities at which he wants to develop a high level at expertise, and it may be that there simply isn’t enough time in a normal human lifespan in which to achieve this. Alternatively, it may be that a person’s preferences are incompatible with each other, in some more or less strict sense. Thus, someone’s preference to be a family man who spends a lot of time with his children may not be compatible with his preference to be a top defence lawyer. Or someone’s preference to be a professional tennis player may not be compatible with her preference to be a professional footballer. Whatever the reason is, if a person’s preferences are not collectively satiable within a single lifetime, then we will not know how to respond from the point of view of justice. We therefore need some way of deciding which of a person’s ideal personal preferences we should be concerned to provide him with the opportunities to satisfy.

My response to this problem involves moving from the rather loose talk about ‘preference-satisfaction’ to the more restrictive notion of the ‘successful execution of life plans’. The notion of a ‘life plan’ refers not only to the bare personal preferences (for which read the personal aims, interests, goals, and desires) that a person has across their life as a whole but, more specifically, to the way these various preferences fit together into a single, rational, ‘harmonious’ scheme. According to Rawls, the notion of a life plan is ‘fundamental for the definition of good, since [it] establishes the basic point of view from which all judgements of value relating to a particular person are to be made and finally rendered consistent’. 211

211 Rawls, A Theory of Justice, p.359.
Because a person will typically have a wide range of personal preferences that are not all compatible or combinable within a single life plan, there will usually be a range of different life plans rationally available to that person. Importantly, though, some of these life plans are more rational than others. Life plans are rational, in the first instance, to the extent that they satisfy the principles of rational choice, which Rawls lists as: (a) the principle of effective means, (b) the principle of inclusiveness, and (c) the principle of the greater likelihood. The principle of effective means says that life plan X is to rationally preferable to life plan Y insofar as plan X achieves more of an agent’s preferences with fewer means. That is, plan X is rationally preferable to plan Y if it achieves the same preferences but with less costly means, or it achieves more (or more important) preferences with the same means. The principle of inclusiveness says that plan X is to be preferred to plan Y if plan X achieves all of the preferences achieved by plan Y and one or more further preferences in addition. The principle of the greater likelihood says that plan X is to be preferred to plan Y if plan X offers a greater likelihood than plan Y that the agent’s preferences will actually be realised. Together these three principles of rational choice (or ‘counting principles’, as Rawls sometimes refers to them) will pick out a rational subset of the full range of life plans available to an agent. The most rational plan within this rational subset is the plan that the agent would choose under ideal conditions – what Rawls refers to as the conditions of ‘deliberative rationality’. Ultimately, says Rawls:

…a person [is] happy when he is in the way of a successful execution (more or less) of a rational plan of life drawn up under (more or less) favourable conditions, and he is reasonably confident that his plan can be carried through. Someone is happy when his plans are going well, his more important aspirations being fulfilled, and he feels sure that his good fortune will endure. Since plans which it is rational to adopt vary from person to person depending upon their endowments and circumstances, and the like, different individuals find their happiness in doing different things.212

212 Rawls, A Theory of Justice, p.359.
Successfully executing one’s rational life plan is thus not an alternative to, but a means of, satisfying one’s preferences. Indeed, it is a particularly effective way of satisfying one’s preferences, since in forming a rational life plan one inevitably has to decide how best to fit together as many of one’s important and possibly conflicting preferences in order to maximise the amount of satisfaction achievable in one’s life.

Now that we know both what type of preferences the distributive component of justice is concerned with and how the problem of how to order those preferences is to be dealt with, we are in a position to plug these ideas into our formulation of the distributive component of justice. Thus we can say that a distribution is just according to the distributive component when each person has an equal opportunity to successfully execute the rational life plan he would choose under conditions of deliberative rationality based on his ideal personal preferences. This is, admittedly, not a particularly succinct principle. But it is, I believe, the correct one. Our next task is to show that, as an archetypal ‘welfarist’ principle, the principle of equality of opportunity for well-being can be defended from what has become known as the ‘fair shares objection’ to welfarism.

**VII. Avoiding the ‘fair shares objection’**

Dworkin argues forcefully that the welfarist aim of making people equal in the success they achieve in executing their life plans (or, we should now say, their opportunities for achieving such success), is implausible unless we already know what sort of life plans it is reasonable for people to form in the first place. Dworkin claims, for example, that it would be unreasonable for someone to expect an equal opportunity to lead the life of someone with ‘supernatural physical or mental powers, or the life span of Methuselah’.\(^{213}\) Similarly, it would be unreasonable for someone to expect an equal opportunity to pursue a life that ‘someone with an unfairly large share of the world’s resources’ might expect to lead.\(^{214}\) What this means, says Dworkin, is that we need to know how to distribute resources fairly to people before we even think about equalising

opportunity for well-being. But if we already know what a fair share of resources is before applying the principle of equality of opportunity of well-being, then the latter principle is clearly either redundant or, worse, unjust.

Dworkin is quite right to point out the possibility that the welfarist principle I am defending here could have some very implausible implications if the life plans people choose – and to which the principle is supposed to respond – are wildly unrealistic. But his conclusion, that the principle of equality of opportunity for well-being should be replaced by the principle of equal resources, is too quick. It is too quick because Dworkin makes the unwarranted assumption that the only ‘reasonable’ life plans are those that are formed against an independently justified ‘fair’ background distribution of resources. This assumption is too controversial to carry the weight that Dworkin places on it, and, indeed, it is an assumption that welfarists explicitly reject, since the type and amount of resources that one will have with which to pursue one’s life plan is the very point at issue between resourcists and welfarists. Nevertheless, Dworkin’s objection still presents welfarists with a serious challenge. For as I said above, it does seem true that some life plans are straightforwardly ‘unreasonable’, in the sense that the people who form them would not be entitled to expect an opportunity to pursue them that is equally as effective as the opportunities others have the right to expect with regards to their own more ‘reasonable’ plans (think here of the person who forms a life plan based on the assumption that she will have supernatural powers). The challenge for welfarists is to show that such unreasonable life plan formation can be ruled out without assuming a prior and independent theory of ‘fair shares’ of resources. If we can meet this challenge, then we can defeat Dworkin’s objection, since as long as the life plans that people choose are reasonable (or perhaps we should now say ‘acceptable’), there will no longer be any objection to any unequal distribution that follows as a consequence of our attempt to provide everyone with equal opportunities to execute them.

How can we demonstrate that it is possible for people to choose acceptable life plans without assuming an antecedently fair distribution of resources? In order to
answer this question I shall make use of the desert island scenario famously proposed by Dworkin himself. We are to imagine that a number of shipwreck survivors are washed up on a desert island that has ‘abundant resources and no native population’ and, further, that because ‘any likely rescue is many years away’ they must decide how to distribute the resources fairly. Contra Dworkin, who assumes that the islanders all believe that the island’s resources should be divided equally, I shall assume that the islanders believe that the island’s resources should be divided as far as possible so as to leave everyone with equal opportunity for well-being. There are numerous advantages to studying the application of these ideals in the desert island scenario depicted by Dworkin. The most obvious is the degree of simplicity that comes from analysing the problem of distribution on such a small scale. Another obvious advantage is that we don’t have to deal with the problem of prior claims to any of the relevant resources. Finally, since the population is constant and everyone ‘starts’ at the same time, we avoid the problems caused by continuous changes in the size and identity of the population. In what follows I set out how I think the islanders should go about applying the principle of equality of opportunity for well-being to the distribution of resources on the desert island.

After people arrive on the island we are to imagine that they each familiarise themselves with the rough type and amount of resources available on the island and the total size of the island’s new population. We then turn to the task of deciding how the resources on the island should be divided up. Here we are to imagine a two stage process. The first stage is the ‘life plan formation’ stage. We are to imagine that during this stage each person spends some time thinking hard about how best to combine their preferences into a ‘coherent and harmonious’ life plan. In order to do so, each person will make use of five pieces of information:

1. Their personal preferences.
2. Their innate physical and mental attributes and abilities, and how these

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compare to the attributes and abilities of others.

(3) The rough amount and type of resources on the island.\footnote{I assume for the sake of simplicity that each person has roughly equal ‘technical knowledge’ of the possible uses to which the resources might be put. In a more realistic scenario we might imagine that technical experts of various kinds are available for consultation during the first stage in order to help people assess the feasibility of their life plans bearing in the mind the current state of technological development.}

(4) The number of people on the island.

(5) The regime of distribution on the island (goods will be distributed according to the principle of equality of opportunity of well-being).\footnote{I take it that although the regime of distribution is not up for discussion, knowledge of its contents is vital for the plausibility of this sort of exercise (although perhaps if the regime of distribution was radically uncertain people would still be able to make some sort of rational choice of life plan – perhaps by applying the maximin criterion). But in any case, I hope that revealing to the islanders that the regime of distribution will be one of equality of opportunity for well-being will free them to choose life plans that they genuinely desire to pursue, safe in the knowledge that they will be provided with an equal opportunity to pursue these plans.}

I shall also stipulate two conditions that constrain the islanders’ formation of life plans. The first condition is what I shall call the ‘good faith requirement’. This states that people must form life plans on the understanding that they will genuinely pursue this plan throughout their life. The good faith requirement does not imply that people must \textit{actually} pursue their chosen life plans single-mindedly throughout their lives, only that they must \textit{form} them as if this were going to be the case (a good way of doing this might perhaps be for each islander to imagine, counterfactually, that he will be forced by the other islanders to pursue the plan he chooses during the first stage).\footnote{Once people know that resources will be distributed according to the principle of equality of opportunity for well-being it would become rational to ‘inflate’ the ambitiousness, and hence the expected costs, of one’s life plan, way past the point at which one would actually prefer to live in that way, simply so as to guarantee oneself as many resources as possible. The good faith requirement rules out this move.} The second condition on life plan formation I shall call the ‘determinateness requirement’. This stipulates that each life plan must be formulated in such a way that, before a person starts pursuing the plan, we can at least conceive of what it would take to \textit{successfully execute} the plan. So, for example, if your only ambition in life is to find a cure for cancer, or invent a time machine, your life plan would not be stated as ‘find a cure for cancer’, or ‘invent a time machine’, since we have no idea what it would take (or even whether it is possible) to successfully execute these plans. We do, however, have a
much better idea what it would take to successfully execute a plan of ‘devoting one’s life to medical or engineering research’, so this is one way in which the original specific and ambitious goals could be coherently incorporated into particular life plans.

With these two conditions in mind the islanders use the information pertaining to the five considerations listed above to form their life plans. There is, however, one important piece of information that the islanders don’t or, rather, can’t know during this first ‘life plan formation’ stage: the content of other people’s preferences. The reason for this is that if we don’t restrict access to such knowledge people may never be able to form any life plans at all. We know that the relative strength of a person’s preferences, possibly the preferences themselves, and certainly the life plans that are formed on the basis of them, will inevitably be affected by knowledge of the preferences of others. The problem is that if A changes his preferences in response to B-Z’s preferences this will in turn affect the preferences of (some or all of) B-Z, which might in turn affect the preferences of A. There may be no way out of this vicious circle. Imagine, for instance, that before A knows that lots of other people want to be entertainers, his preference for being an entertainer is marginally stronger than his preference for being a shipbuilder. When he finds out that nearly everyone (B-Y) prefers being an entertainer to being a shipbuilder, A’s preference for shipbuilding may become stronger than his preference for entertaining. But now person Z, who only wanted to be a shipbuilder if he was going to be the only person building ships, will no longer want to be a shipbuilder. How his preferences change in response may in turn influence the preferences of others. And so on. (For ease of reference I shall label this the ‘paradox of preference formation’). It is technically possible that this process may reach a natural conclusion, a point at which everyone settles on a solid and unchanging set of preferences which has been formed with full knowledge of everyone else’s preferences, thereby dissolving the paradox. But unfortunately we have no antecedent guarantee that this will in fact happen. In light of this, the sensible thing to do seems to be to ask people to form their preferences, and hence their life plans, in the absence of knowledge of others’ preferences.
So, bearing in mind the information pertaining to points (1)-(5) on the list above, people are to think about how best to combine their preferences into a coherent life plan. Since most people will have a wide diversity of preferences not all of which are combinable within a single plan it is inevitable that some, or perhaps all, will end up forming several distinct life plans between each of which they are indifferent (because each plan in the set scores equally well in terms of expected preference satisfaction). This creates a problem, but also an opportunity, as we move into the second ‘life plan allocation’ stage.

The problem is that if each person has several different ‘first-best’ life plans (in terms of the expected preference satisfaction that would result from their successful execution) then it is no longer clear how we can satisfy the principle of equality of opportunity for well-being. On the contrary, if everyone had a single first-best life plan, then we could ‘simply’ work out how to distribute goods so as to provide everyone with an equal opportunity of successfully executing this particular plan. But when each person has multiple plans between which they are indifferent, we need some way of deciding which plan is going to be the one that we provide people with an equal opportunity to pursue – different plans will ‘cost’ different amounts, literally in terms of the ‘opportunity-costs’ of using resources to provide this particular person with this particular opportunity rather than someone else with a different opportunity. The rational solution would seem to be to base our choice on considerations of efficiency. By choosing the plan from each person’s set of first-best plans that offers the highest degree of cost effectiveness, we will be able to maximise the average effectiveness of the opportunities we provide people with (this is why I said that the fact that most people’s first-

\[219\] It is important to acknowledge another serious practical difficulty with any welfarist metric (even ones that escape the fair shares objection). The problem concerns how we are to measure the relative degrees of success that different people are achieving in pursuing their life-plans. How do we decide if the person who wants to be a philosophy professor is achieving more or less success in fulfilling his plan than the person who wants to be a successful housewife with four children? Without a common metric to compare the two, we seem forced to rely on judgements that will inevitably be more or less arbitrary. The force of this objection to welfarism is undeniable, and I do not have a good response to it. All I can say, once again, is that, if a welfarist principle is the correct fundamental principle of justice, then the fact that we are unable to judge with any accuracy when it is being satisfied does not constitute a reason for rejecting it (though it may be a reason for adopting a more easily measurable proxy).
best set of life plans will contain multiple plans presents us with an opportunity as well as a problem).

But now we face a similar problem to the problem raised by the paradox of preference formation. How can we tell which life plan from a person’s first-best set is the most ‘cost effective’ without first knowing exactly which plans everyone else will be pursuing? Imagine that everyone’s first-best set consists of only three plans: they all want to be either an entertainer or a shipbuilder or a woodcutter. How do we know which plan to help people pursue? Presumably it will in general be cheaper to provide naturally talented entertainers with opportunities to be entertainers, naturally talented shipbuilders with opportunities to be shipbuilders, and naturally talented woodcutters with opportunities to be woodcutters. This is not only because it is difficult (and hence costly) to train people for jobs for which they have no natural aptitude, but also because people are most productive in jobs at which they are naturally talented. But appealing to people’s natural aptitudes will not solve the problem entirely, for there are bound to be many people who are roughly equally suited to many different occupations. Imagine X, Y, and Z are all equally naturally talented at the three occupations in the example. Analysing X’s first-best set we might decide it would be most cost effective to provide him with the opportunity to be a woodcutter, since all we need to give him is an axe and some brief instructions on how to use it. But then, analysing Y’s first-best set, and then Z’s first-best set, we will come to a similar conclusion in each case: all three should be given the opportunity to be woodcutters because, taken one at a time, this is the most cost effective life plan from each individual’s set. Now, however, we have lots of woodcutters, and no entertainers or shipbuilders. Since it is likely that some if not most people’s wider life plans will include preferences for entertainment and the goods that come from using ships, our decision to set X, Y and Z up for woodcutting now appears more costly than it first seemed (in terms of our ability to provide for these other aspects of people’s life plans).

The solution to the problem is to give up trying to individually analyse each person’s first-best set in order to determine the least expensive plan for that person
taken in isolation and, instead, to take all the plans in everyone’s first-best set together and work out a combined solution that allocates life plans to people according to the cost effectiveness of the entire, integrated scheme (while ensuring, obviously, that each person ends up with an equal opportunity to pursue a plan that was in their original first-best set). So, taking X’s, Y’s, and Z’s first-best sets jointly into consideration, for example, we might decide that the most efficient way of giving each an equal opportunity to successfully execute (one of) his first-best life plan(s) is to allocate X the resources he needs to be a woodcutter, Y the resources he needs to be an entertainer, and Z the resources he needs to be a shipbuilder. There is no necessary reason, of course, why the individuals in question should be matched up with the jobs they are in fact matched up with. But notice that neither X, nor Y, nor Z can complain that they have been treated unfairly (and I should perhaps stress here that talk of ‘matching people to jobs’ and of ‘allocating life plans to people’ is not meant to imply that people do not have freedom of occupation. The aim here is to set out a scheme for distributing goods to people in order to provide them with fair opportunities to satisfy their preferences, not to tell them, or force them, to use these opportunities in a certain way). Ex hypothesi each individual was indifferent between the three options, and now they each have the most effective opportunity possible to successfully pursue one of these options, consistent with the others having an equally effective opportunity to pursue a different option. Of course, as the picture becomes much bigger and more complicated, we may need to use increasingly powerful computers to carry out the necessary combinatorial calculations. But the possibility of solving the problem stands, at least in principle.

It might be helpful to briefly recap how the two-stage process works: In the first ‘life plan formation’ stage, people form one or more life plans between which they are indifferent (in terms of expected preference satisfaction) based on their knowledge of key facts about the world in which they will attempt to execute their life plan (including its resource wealth, the number of people who have a claim on this wealth, and their attributes and abilities). In the second ‘life plan allocation’ stage, the sets of
preferred life plans that people form during the first stage are collected together and one life plan from each person’s set is allocated to that person in such a way that when we apply the principle of equality of opportunity for well-being, each person is provided with an equal and maximally effective opportunity to successfully execute their allocated plan. The point of the two-stage process is to demonstrate how people might come to form ‘acceptable’ or ‘reasonable’ life plans without assuming a prior theory of fair shares of resources. I shall now briefly assess how successfully the two-stage process achieves this aim.

One potential concern is simply that the two-stage process does not, in fact, rule out the possibility that people will form life plans that are ‘unreasonable’. We must be careful to state the right form of this objection. We cannot object, as Dworkin does, that it is ‘unreasonable’ for one to form a life plan based on the assumption that one will or might have an unequal share of the world’s resources; to repeat, the share of resources one will have with which to lead one’s life is precisely the point at issue between resourcists and welfarists, and so this form of Dworkin’s objection is straightforwardly question-begging. Instead, we must object on the grounds that it is unreasonable to assert a claim to any amount of resources when the preferences (or life plan) on which the claim is based are of a certain unacceptable kind. Are the life plans that people are allocated through the two-stage process of this unacceptable kind? I do not think so. The good faith requirement rules out the formation of life plans that people would not be genuinely happy to actually follow, thus ensuring that no one tries to manipulate the system in his favour by disingenuously inflating the ambitiousness and thus costliness of his life plan. The determinateness requirement ensures that the life plans which people do form are formulated in such a way that we know, or at least would not have too much trouble working out, what would be required to provide someone with an effective opportunity to pursue it. When these two conditions are combined with the further implicit requirement that people form rational life plans based on their aim of securing the highest expected degree of preference satisfaction in light of a rough idea of the total amount and type of resources and the number of other
people who have a claim to these resources, I think we can be reasonably certain that
the life plans people form will not be ‘unacceptable’ in the relevant sense. This is not to
deny the possibility that people might form extremely ambitious life plans during the
first stage of the process.\footnote{Indeed, as the population of the world we are talking about increases, the likelihood of people forming extremely ambitious life plans also increases, since the bigger the population, the smaller the difference will be in the relative effectiveness of the opportunities with which people can be provided in order to pursue a moderately ambitious life plan compared to an extremely ambitious life plan.} But there are several things we can say in response to this. First, people’s knowledge of the resource (and technological) limitations of the world will likely rule out insanely ambitious plans (it would be irrational, for instance, to form a plan to visit all the stars in the galaxy). Second, whenever a person is indifferent between a hugely ambitious life plan and a rather less ambitious life plan, we can be fairly confident that the latter life plan will be allocated to him in the second stage. And, third, even if the only life plan a person chooses is extremely ambitious, it is important to remember that this reflects his preferences in the same way that all first-best life plans do. If anyone objects to the person who has a much larger share of resources devoted to his life than anyone else does, the correct response, as long as the process has been conducted properly, is that there is nothing unfair about this.\footnote{It is worth noting that this objection could, and most probably would, be pressed not only against very able individuals who formed very adventurous life plans, but also far less able, or even disabled individuals, who formed less adventurous but equally ‘ambitious’ life plans. The life plan of a naturally athletic individual who desires to travel to the edge of the solar system may turn out to be no more costly than the life plan of a disabled individual who desires to play professional football. Both of these individuals would receive the same amount of assistance in pursuing their goals.}

A second concern with the two-stage process is that it is not sensitive enough to the luck-egalitarian intuition because, although it is welfarist in spirit, it still allows brute luck too much influence in determining people’s life prospects. By allowing people to form life plans based not only on knowledge of their own attributes and abilities but also their place in the distribution of talents we are allowing people’s life plans to be too heavily influenced by irrelevant contingencies. This concern is unwarranted. Allowing people to form their life plans on the basis of information about their own and others’ attributes and abilities is intended to enable them to make rational decisions about how best to satisfy their preferences. Consider a person who would prefer being a professional singer to being a professional footballer in a world where he...
was the best singer and the best footballer, but who would prefer being a footballer to being a singer in a world where he was an average singer and excellent footballer. Absent the information pertaining to his and others’ attributes and abilities he might form a life plan to be a singer, but with the information he might, if it turns out that he is a more talented footballer than he is singer, form a life plan to be a footballer. Since the second world is the one he actually has to live in it seems sensible to allow rather than restrict the relevant information. Now consider someone else who only wants to be a professional footballer, regardless of how naturally gifted a footballer he is. For this person, the information about his and others’ attributes and abilities will make no difference; even if he is physically disabled (within limits), it may still be rational to form a life plan to be a footballer. This shows that the objection that the two-stage process is not sensitive enough to the luck-egalitarian intuition is groundless.

A related but more serious concern is that severely mentally disabled people are excluded from the two-stage process altogether, since participants in the process are assumed to be capable of forming life plans. I don’t know how to solve this problem (though I take it that this is no special mark against my theory in particular). One possibility would be to ask friends or family of the disabled person to act as a trustees and to form a life plan or plans for the disabled person which could then be entered into the second stage along with everyone else’s plans. The obvious problem with this idea is that if a person is incapable of forming a life plan for themselves then it is likely that they will also be incapable of consistently and purposefully pursuing it. Indeed, it seems that the principle of equality of opportunity for well-being is simply the wrong principle when it comes to the question of justice for severely mentally disabled people. The idea of providing ‘opportunities’ is a far less attractive solution to the problem of justice in this case, and the theory of well-being as the successful execution of life plans is equally unhelpful. I suspect, therefore, that the most plausible and satisfactory way of dealing with this issue is to come up with a new principle that would supplement the principle of equality of opportunity for well-being. The distributive component of justice would then say that a distribution is perfectly just when all people who are
capable of forming and pursuing life plans have equality of opportunity for well-being and all people are not capable of forming and pursuing life plans have X. Unfortunately it is beyond the scope of the current discussion to speculate about what ‘X’ might be in this case.

A final set of problems with the two stage process are not moral, but practical in nature. What plausibility the scheme has as a whole depends to a large extent on our accepting some pretty extravagant idealisations and far fetched abstractions. In my defence, I shall simply repeat what Dworkin says:

...our project is in the main...entirely theoretical. Our interest is primarily in the design of an ideal, and of a device to picture that ideal and test its coherence, completeness, and appeal. We shall therefore ignore practical difficulties, like the problem of gathering information, that do not impeach these theoretical goals, and also make simplifying counterfactual assumptions that do not subvert them.222

Whether or not the two-stage process I have described here is more or less unrealistic than Dworkin’s auction and hypothetical insurance market is irrelevant. The real test, as Dworkin says, is whether the two-stage process can help us to see (and, ultimately, convince us) that the principle of equality of opportunity is coherent, complete, and appealing. As long as it succeeds in doing this then that is all that can be reasonably asked.

VIII. Conclusion

I have argued in this chapter that the content of the distributive component of justice is given by the principle of equality of opportunity for well-being. More specifically, I have argued that a distribution is only fully just when every individual has an equally effective opportunity to successfully execute one of his first-best life plans constructed under ideal conditions from ideal personal preferences. My argument for this conclusion involved a number of steps. First, using the formal features of the distributive component (e.g. the fact that its content must be constituted by principles

222 Dworkin, Sovereign Virtue, pp.72-3.
that are able to be applied in a teleological as well as a deontological sense) I argued that the content of the distributive component is most likely to be constituted by either an egalitarian or sufficientarian principle, rather than some form of maximising principle. I then argued that egalitarianism is to be preferred to sufficientarianism on substantive grounds. Having established to a fairly high degree of confidence that the content of the distributive component is given by some form of egalitarian principle, I then argued that the most plausible candidate for the currency of this egalitarian principle is ‘opportunity for well-being’. I defended and explained the need to appeal to opportunities for well-being, rather than outcomes, and I then addressed a number of different objections to the idea of appealing to well-being in the formulation of principles of justice, most notably the ‘fair shares’ objection. My solution to the fair shares objection involved first setting out a theory of justice-relevant well-being according to which a person’s well-being is to be judged according to how successful they are in executing a rational life plan formed from their ideal personal preferences. I then claimed that by getting everyone to form a set of first-best life plans on the basis of restricted information and then allocating one of these life plans to each person through a combined assessment of the most efficient way of maximally satisfying everyone’s life plans we would be able to avoid the fair shares objection.

Obviously I hope that my defence of the principle of equality of opportunity for well-being is successful, or at least persuasive. But it is clearly a very complex argument, and that means there are inevitably many points at which it might be criticised. However, even if my argument is neither successful nor persuasive, the implications of this failure should not be misunderstood. The cogency of the dual-component model as a whole is independent of the plausibility of any particular conception of the content of (either of) its components. If the principle of equality of opportunity for well-being is found to be fatally flawed, all it shows is that more work needs to be done in order to work out the content of the distributive component of justice. But, having said that, for all the problems it faces, I do think that the principle of equality of opportunity for well-being is a plausible interpretation of the ideal of
basic distributive fairness. More than that, I think the idea that the world will only be fully just when each person has a genuinely equal chance to pursue his or her goals and desires is an inspiring one. It now only remains to be seen in the next chapter what sorts of considerations could potentially block our path to achieving it.
(8) The Interactional Component of Justice

I. Introduction

The central claim of the dual-component model of justice is that there are two necessary conditions of a perfectly just distribution. First, the distribution in question must mirror the ideal of basic distributive fairness. Second, it must have been brought about without the violation of the principles of justified coercion. If my argument so far has been correct then we can say that the ideal of basic distributive fairness consists in an equal distribution of opportunity for well-being, and that it is therefore a necessary condition of a perfectly just distribution that all persons have an equal opportunity for well-being. In this chapter I turn my attention to the second necessary condition of a perfectly just distribution. Unlike my treatment of the distributive component, however, my discussion of the interactional component will not feature any attempt to work out the precise content of its fundamental principle(s). The reason for this, as I explained in section IV of chapter 6, is that determining the content of the principles of justified coercion is a much more difficult task than determining the content of the distributive component (and we have already seen how difficult the latter task is). The distributive component is concerned with articulating a single, important value: basic distributive fairness, but the interactional component, due to its inherently practical, action-guiding nature, must incorporate a much wider range of relevant considerations. Rather than trying to work out the detailed content of the interactional component then, I shall be content with the more modest aim of explaining more clearly why the interactional component of justice is so important and why we should care about it, and to indicate the kinds of things that one would need to consider in order to begin to work out its content.

To be even more specific, my primary concern is to bring the discussion back to the topic of global justice with which we started, and to explain why the dual-component model may prove to be a particularly helpful tool in making sense of the normative problems we face in this area. The distributive component on its own is
clearly of little use; for even if we could all agree that equality of opportunity for well-being (or whatever conception of basic distributive fairness one prefers) is an attractive ideal to aim for at some point in the future, what we really need to know now is what can and should be done about the current global state of affairs. This latter question is the one to which the interactional component of justice seeks to provide an answer. In light of this, though, it might be wondered why we should bother with the distributive component at all. Why not just start and end with the interactional component? A poor answer to this question is that until we know where we are going it is difficult, and perhaps impossible, to work out how to get there. As Sen has recently argued, it is simply false to claim that we need to know what perfect justice looks like before we can improve the justice of the world as it currently is. Trying to determine the content of ideal justice is undoubtedly a very interesting exercise, but it seems unlikely that success in this endeavour is a necessary condition on progress towards an incrementally more just world in the here and now.

A better answer refers not to the immediate practical benefits of developing these two distinct components of justice but to the long term practical benefits on the one hand, and the obvious theoretical benefits on the other. Being clear about our reasons for eradicating injustice may not expedite the initial remedy, but it is surely likely to increase the robustness of that remedy when it eventually comes. And, of course, in order to get clear about our reasons for eradicating injustice, it is not enough merely to want to see an end to injustice; we need to know why something counts as an injustice in the first place. By developing the distributive component of justice as a first step towards formulating a complete theory of justice we make it much easier to subsequently set out and explain the role of the interactional component within that theory. There is no necessary reason why the interactional component could not be developed as a freestanding element within a particular conception of justice – this is, after all, what proponents of the coercion view of justice do all the time. But the

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interactional component makes much more sense, and will ultimately, I hope, have much more impact, when it is discussed in relation to the distributive component.

As I explained in chapter 6, a useful way of characterising the role of the interactional component is as specifying the limits of what we may justifiably coerce people to do in order to realise and maintain the ideal of basic distributive fairness. Having seen in the previous chapter what the ideal of equality of opportunity for well-being entails we can be sure that any attempt to realise and maintain a distribution that mirrored that ideal will be very demanding task. Of course, if realising and maintaining the ideal in the real world was all we cared about, then presumably we would be willing to do whatever it takes. But realising and maintaining the ideal of distributive fairness is not all we care about. And when we consider some of the things that realising and maintaining the ideal would require us to do, then we may, all things considered, judge them to be rationally undesirable and perhaps even intrinsically unjust. The interactional component’s role is to respond to the potential undesirability and intrinsic injustice of attempts to realise the ideal of basic distributive fairness and to offer practical guidance in the form of principled limits on how people may justifiably exercise coercion over one another. If these limits are violated then even though the distribution that results from such violations might ultimately mirror the ideal of basic distributive fairness, it will nevertheless be tainted with injustice. My modest aim for this chapter is to give some indication of where the source of this injustice lies.

II. Rational undesirability and intrinsic injustice

In the last paragraph of the previous section I referred to the interactional component’s role in constraining the potential rational undesirability and intrinsic injustice of attempts to realise and maintain the ideal of basic distributive fairness. In this section I explain what I mean by the ‘rational (un)desirability’ of attempts to realise the distributive ideal. In doing so it will hopefully become clear both why the rational desirability of attempts to realise the distributive ideal is relevant to the content of the interactional component, and what the difference is between saying that an attempt to
realise the distributive ideal is rationally undesirable and saying that such an attempt is intrinsically unjust.

One caveat: various attempts to realise the ideal of basic distributive fairness might be rationally undesirable in a whole host of different ways, depending on the values they promote or demote, and the relative weight of these values. These issues are far too complicated to discuss adequately here. I shall therefore restrict the scope of my discussion of the rational desirability of attempts to realise the distributive ideal to their rational desirability when judged purely from the perspective of the distributive ideal itself. It is also important to emphasise that throughout this section I shall leave any concerns about the intrinsic injustice of various attempts to realise the distributive ideal to one side.

So, in attempting to realise or maintain the ideal of basic distributive fairness, there are bound to be a wide range of different ways in which we can coerce each other, either directly or through the state, that will help bring us closer to our goal. Let us refer to these different ways of coercing one another as 'strategies' for realising and maintaining the distributive ideal. I shall say that a particular strategy for realising and maintaining the distributive ideal is desirable, in the first instance, to the extent that it achieves its aim of producing a distribution of equality of opportunity for well-being. Moreover, I shall say that one equality-achieving strategy is more desirable than another equality-achieving strategy if the equal opportunities it produces are more effective than the opportunities produced by the alternative strategy. This conclusion (that an equality in which everyone is better off is better than an equality in which everyone is worse off) is not explicit in the formulation of the distributive component, but it is nevertheless entailed by it. To take an example of Christiano’s, imagine two scenarios, in the first of which A has 2 and B also has 2, (A:2, B:2) and in the second of which A has 5 and B also has 5 (A:5, B:5).\(^224\) (The numbers stand for the effectiveness of A and B's opportunities for well-being). Both scenarios obviously satisfy the distributive component of justice, and both are therefore perfectly just. But in the second scenario

everyone is better off than they are in the first scenario, and so the second scenario is to be preferred even when judged purely from the point of view of the distributive component.

How can this be explained? The answer Christiano gives is this:

There is an internal connection between the rationale for equality and the value of the relevant fundamental good that is equalised. If it were not true that more well-being is better than less, then there would be no point to equality. There would be no reason to care about equality. Since the importance of well-being or opportunity for well-being seems to be built in to the principle of equality – it is the reason for the principle taking the shape that it does – [egalitarians] cannot be indifferent between these two scenarios.  

The second scenario (A:5, B:5) is to be preferred to the first (A:2, B:2), according to the distributive component, because not only is the distribution in the second scenario equally just when compared to the distribution in the first scenario (a point that is obviously directly relevant according to the distributive component) but also because the overall level of opportunity for well-being is higher in the second scenario than the first, (a point that is relevant according to the rationale underlying the distributive component).

What are the implications of this for the interactional component? Well, imagine there are only two feasible ‘strategies’ available to us for attempting to realise the distributive ideal. Strategy 1 promises to produce the first scenario (A:2, B:2), and strategy 2 promises to produce the second scenario (A:5, B:5). Both strategies involve the exercise of coercion over various people in numerous different ways, but since the intrinsic injustice of these coercive strategies is not in question, the only basis on which we have to choose between them is their relative desirability in terms of achieving the goal of distributive fairness. I believe that our preference for the second scenario over the first scenario should be taken to imply that the principles of the interactional component should rule out the coercion involved in implementing strategy 1 as unjustified (or at least, they should rule out as unjustified any coercion involved in

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implementing strategy 1 that is not required in order to implement strategy 2). Notice
that it would not be (derivatively) unjust according to the *distributive component* to
implement strategy 1, since the result would still be a perfectly just distribution of
equality. My claim is that the implementation of strategy 1 would be directly unjust
according to the *interactional component*, because such coercion would make everyone
worse off than they need to be, and this is rationally undesirable even on the
distributive component’s own terms.

What if the only feasible choice is not between the first scenario and the second
scenario, but between the first scenario \((A:2, B:2)\) and a third scenario in which A has 1
and B has 5 \((A:1, B:5)\)? The implication here is that the *only way* to distribute 5 to B is to
pursue a coercive strategy (strategy 3) that leaves A with 1. I think what we should say
in this case is that the principles of the interactional component should rule out as
unjustified any coercive practice that is uniquely implied by strategy 3. The reason for
this is that although the third scenario seems preferable in terms of overall opportunity
for well-being compared to the first scenario, the third scenario is nevertheless unjust
(in terms of the distributive component). The general rule here, I think, (though see the
caveat in the next paragraph), is that the undesirability of an unequal, and hence unjust,
distribution trumps the desirability of a higher overall level of opportunity for well-
being (again, only when viewed purely from the perspective of the distributive
component). If our only two feasible strategic options are to produce *either* an equal
distribution in which all parties have moderately effective opportunities for well-being
*or* an unequal distribution in which some parties have extremely effective opportunities
for well-being and some parties have slightly-less-than-modernly effective
opportunities for well-being, then, insofar as the principles of the interactional
component are concerned with the *desirability* of the alternative strategies relative to the
distributive component, these principles should prohibit the implementation of the
second strategy.

I have argued that, as a general rule, the justice (i.e. equality) of a distribution
usually trumps its preferability in terms of overall opportunity for well-being (assuming
such a quality is in principle measurable). This means that when our only two strategic options are to produce either an equal distribution, or an unequal distribution in which some are (slightly) lower and some are (much) higher, the principles of the interactional component should prioritise the former by allowing any coercion that is necessary, and prohibiting any exercise of coercion that is not necessary, to the implementation of the strategy that produces the equal distribution. The caveat to this general rule arises when our only two strategic options are to produce either an equal distribution, or to produce an unequal distribution that is (at least weakly) pareto superior. Let’s say our only two feasible strategic options are to produce either the first scenario (A:2, B:2) or a new, fourth scenario, in which the distribution is (A:2, B:5). If we were applying the general rule, we would presumably conclude that the first scenario is more desirable from the perspective of the distributive component than the fourth scenario, because although there is a higher overall level of opportunity in the latter, there is also inequality, and inequality trumps aggregate opportunity. This doesn’t seem right, however. Recalling Christiano’s distinction between the principle of equality itself and the rationale underlying the principle, it seems that although the inequality in scenario four is to be regretted in one sense as unfair (and hence not perfectly just), it is nevertheless a more desirable distribution, on the distributive component’s own terms, than the first scenario, because the opportunities under that scenario are better for some and worse for none. In this situation, when it comes to determining the limits that the interactional component should place on justified coercion, the correct solution is to say that the coercive strategy required to bring about scenario four should be permitted and any coercion that would be required to produce scenario two should be prohibited.

To recap the argument of this section: I have argued that the content of the interactional component can be at least partially determined just by analysing the comparative desirability – from the perspective of the distributive component – of various distribution-producing coercive strategies. I considered four different possibilities:
Scenario one – achieved by coercive strategy 1 – (A:2, B:2)
Scenario two – achieved by coercive strategy 2 – (A:5, B:5)
Scenario three – achieved by coercive strategy 3 – (A:1, B:5)
Scenario four – achieved by coercive strategy 4 – (A:2, B:5)

Ignoring questions about the intrinsic injustice of these various coercive strategies, I compared strategy 1 against each of the other strategies and decided which coercive strategy the interactional component should prohibit/permit based purely on a judgement of the relative desirability of the scenarios that were achievable by pursuing each strategy. Comparing strategies 1 and 2, I concluded that the principles of the interactional component should permit strategy 2 and prohibit strategy 1. Comparing strategies 1 and 3, I concluded that the interactional component should permit strategy 1 and prohibit strategy 3. Comparing strategies 1 and 4, I concluded that the interactional component should permit strategy 4 and prohibit strategy 1. The argument for permitting 2 while prohibiting 1 seems uncontroversial, since both 1 and 2 are equally just and everyone benefits from 2 compared to 1. The argument for permitting 1 while prohibiting 3 is fairly straightforward too, since an injustice is introduced in 3 and this injustice comes at the cost of A, who loses out compared to 1. The argument for permitting 4 and prohibiting 1 is perhaps most controversial, since here the introduction of a distributive injustice is being tacitly endorsed by the interactional component. But since the injustice does not come at anyone’s cost, there does not seem anything objectionable in principle about the interactional component’s tacit endorsement of this injustice (recall that the distributive component still recognises an injustice here).

What all this shows is that some fairly substantive conclusions about the content of the interactional component can be derived simply from assessing the relative desirability of various strategies for achieving the distributive ideal. This is even before we get on to the tricky questions of the possible intrinsic injustice of such strategies. As a final point it is worth noting that even if one doesn’t agree with the final claim I make in the preceding paragraph – that is, even if one thinks that, judged purely
from the perspective of the distributive component, the relative desirability of the
distributions that are produced by strategy 1 and strategy 4 means that the interactional
compont should rule out the implementation of strategy 4 and thereby ensure the
implementation of strategy 1 – there are still other grounds for thinking that the
interactional component should allow 4 and prohibit 1. These grounds refer to the
intrinsic injustice of treating people merely as a means to the production of a fair
distribution, even when no one else benefits from this. Questions about the intrinsic
injustice of attempts to realise the distributive ideal thus offer us entirely independent
grounds for permitting or prohibiting the exercise of coercion.

III. Intrinsic injustice: two applications for the interactional component

In order to gain a clearer understanding of the ways in which the intrinsic
injustice of attempts to realise and maintain the distributive ideal can trigger the
interactional component to rule them out as unjustified, it is helpful to think of the
principles of the interactional component as applying to two different types of
situation. Up to this point I have been talking about the permissibility of attempts to
‘realise and maintain’ the ideal of basic distributive fairness, without making any attempt
to distinguish between the questions raised by attempts to realise the ideal and the
questions raised by attempts to maintain the ideal. Distinguishing these two sets of
questions will help us to pinpoint what exactly is intrinsically unjust about certain types
of coercion, and this in turn should make it easier to draw out the kinds of underlying
considerations that motivate the interactional component itself.

Consider first the problem of maintaining a distribution that mirrors the ideal of
basic distributive fairness. When we talk about wanting to ‘maintain an ideal
distribution’ we are obviously talking about a situation in which we want to move from
one state of affairs in which the ideal distribution exists to another state of affairs in
which the ideal distribution exists. What we want the interactional component of justice
to do in this situation is to tell us how we may justifiably coerce people in order to
effect a move from one state of affairs to the other without disrupting the distribution
of equality of opportunity for well-being already in place. I shall refer to this as the
‘ideal application problem’, since the problem here is one of applying the principles of justified coercion to a situation which is, in one sense at least, ideal.

Next consider the problem of realising a distribution that mirrors the ideal of basic distributive fairness. In this case we are obviously talking about a situation in which we want to move from a state of affairs in which the ideal distribution does not exist to another state of affairs in which the ideal distribution does exist. What we want the interactional component of justice to do in this situation is to tell us how we may justifiably coerce people in order to effect a move from a situation in which some people’s opportunities for well-being are less effective than others’ to a situation in which everyone has equally effective opportunities for well-being. I shall refer to this as the ‘non-ideal application problem’, since the problem here is one of applying the principles of justified coercion to a situation which is, in one sense at least, non-ideal.

In drawing a distinction between the ideal and non-ideal application problems I do not mean to imply that the precise content of the interactional component is somehow dependent on context or circumstance. Once the principles of the interactional component have been formulated they are no more liable to revision than the principle that constitutes the distributive component. The point of separating the ideal and non-ideal application problems is not to suggest that there are two distinct sets of interactional principles, one applying to ideal situations and the other applying to non-ideal situations, but rather to help us locate and articulate the intuitive concerns that underlie the various principles which constitute its content.

**IV. The ideal application problem and freedom of occupation**

Since the practical question that I am particularly concerned to address refers to the stringency of our duties of justice in light of one specific problem, namely, the problem of global injustice, I shall not spend too long discussing the issues raised by the ideal application problem. For most plausible conceptions of basic distributive fairness we can be fairly certain that the current global distribution does not satisfy them. Thus, the really important practical questions to which the interactional
component promises to provide answers are raised by non-ideal application problems (such as the one we face with the current global distribution).

Nevertheless, important truths can be ascertained by studying the ideal application problem, one of which I want to highlight in this section. Imagine, then, that equality of opportunity for well-being prevails in a particular society. Such a society is ideally just according to the distributive component. But now imagine that the only way in which the state can maintain equality of opportunity for well-being is by threatening many of the most talented members of the society with extreme punishments in order to coerce them into taking on certain occupations. Since there is no reasonable alternative to doing what the state demands, the talented members of the society take on the occupations in question, thus ensuring that equality of opportunity for well-being is maintained. Let us stipulate further that, if the talented individuals in question were not coerced to take on the relevant occupations, then they would probably not choose to do so voluntarily, and that, if they do not take on these occupations (voluntarily or otherwise) then the potential result will not only be that their opportunities for well-being significantly increase, but the opportunities for well-being of many other members of the society will be significantly diminished.

Is there anything unjust about the state coercing the talented members of the society into taking on certain occupations? We know that if justice only consisted of a distributive component then the answer to this question would be ‘no’. This seems like the wrong answer. By taking away the talented citizen’s freedom of occupation, the state appears to be engaging in an archetypal unjust act, (or rather, because the violation of freedom of occupation is fairly systematic, it would perhaps be more accurate to say that the state has set up a derivatively unjust institution). The intuition that underlies this claim is obviously a standard liberal one. It does not refer to the consequences, good or bad, that such a violation of freedom of occupation will bring about. Instead, the distinctive wrong involved here – the intrinsic injustice of such coercion – resides in the state’s failure to respect the distinctive moral status of its citizens. I shall not repeat

\[226\] The potential, rather than certain, nature of this result is important, as I explain below.
here everything I said above (in chapter 6) about the importance that each person’s pursuit of his or her own projects assumes from the personal moral standpoint. All I shall say is that to deny a person the freedom to choose how to work, to choose which occupation into which to put his time and efforts, is to display indifference to this fact. It is to fail to respect a person’s nature as a being that is capable of making these choices, and one that attaches huge significance to them having made them.

The intrinsic injustice of the state’s violation of (some of) its citizens’ freedom of occupation in this example clearly shows how the interactional component of justice, by placing limits on the justified exercise of coercion, can come into conflict with the distributive component of justice. Now, in response, it might be objected that, although I have shown how such a conflict can arise, I have not actually explained how such a conflict is to be resolved. On the contrary, continues the objection, I have merely assumed that the deontological restriction that the interactional component places on the state’s exercise of coercion overrides the reason that the distributive component provides the state with to go ahead and exercise this coercion. I confess that there is indeed a sense in which I have ‘assumed’ that this is the correct answer. The ‘assumption’ in this case is based on a strong intuition about how to correctly balance these opposing aspects of justice, and, realistically, I do not see how such intuitive balancing is to be avoided. Fortunately, though, I believe we can say a little more than this.

In many cases, of which the scenario discussed in this section is one example, it seems to make sense to prioritise the interactional component over the distributive component. This is because in many situations, respecting the interactional component does not rule out the possibility of satisfying the distributive component, whereas ensuring the satisfaction of the distributive component inevitably rules out the possibility of respecting the interactional component. As soon as the state violates its citizens’ freedom of occupation it transgresses the principles of justified coercion, thus tainting the resulting distribution with injustice and, ultimately, defeating its original purpose of bringing about a just distribution. If, however, the state respects the interactional component by granting its citizens freedom of occupation, then it does
not automatically rule out the possibility of realising a fully just distribution. Depending on how effectively motivated they are by the claims they recognise from the impersonal standpoint, the citizens in question may choose to take on those occupations after all. Or, after choosing different occupations, they may decide to do other things (such as redistributing money or doing volunteer work, etc.), and these further activities may go some or, perhaps, all of the way to satisfying the distributive ideal. The point is that respecting the interactional component does not preclude the satisfaction of the distributive component, and in an ideal world where the distributive component is already realised, this truth is particularly salient.

V. The non-ideal application problem and stability of expectation

In our world, of course, the distributive component is far from being realised, and the question whether, and how far, to respect the interactional component in the face of such gross unfairness is a much more difficult and pressing issue. I want to exercise the reader’s intuitions about this issue, and in order to do so I set out in this section a series of ‘divided world’ scenarios. To ensure that these scenarios generate intuitive responses that are as clear and untainted as possible I have gone to some lengths to specify them in detail. The general aim is to try to work up from fairly simple and straightforward situations to a more complicated situation which is similar in some important respects to the one in which we currently find ourselves in the real world. What I hope to highlight in particular is one important way in which the conflict between the global rich and global poor arises. In the course of analysing this conflict I shall discuss an important but often neglected source of the claims that are made on behalf of the global rich, namely, their claim to a certain degree of ‘stability of expectation’ that will allow them not only to form life plans in the first place, but to see them through over time, free from the potentially devastating interference of others.

227 Divided world scenarios are often used in discussions of global justice, but the particular way I set the scenarios up in this section owes a lot to Michael Blake, who in turn (explicitly) borrows some of his ideas from James Buchanan. See, Blake, ‘Distributive Justice, State Coercion, and Autonomy’, pp.289-94.
I also have a different motive for setting up the discussion of the divided world scenarios in the way I have. My hope is that by analysing one of the ways in which the conflict between the rich and poor arises, and by analysing how each side responds, we will naturally come to see how the dual-component model can help us make sense of the problems of global justice. As well as investigating a further potential source of the interactional component’s content, then, the aim of this section is to provide further support for the dual-component itself. Here, then, is the first scenario:

Riverworld

Riverworld is a world consisting of two land masses separated by a river. On either side of the river live two primitive societies, Fertileland and Barrenland. Although the people of Fertileland and Barrenland think of themselves as belonging to distinct societies with distinct cultures, it just so happens that the members of both groups share strongly egalitarian and universalist views about distributive justice. What I shall call the ‘original distributive ideal’ is held to be a universal truth by the members of both societies:

Original Distributive Ideal: a distribution is just when each person, no matter where he or she lives or what national or cultural group he or she is a member of, has an equally effective opportunity for well-being, where a person’s well-being is defined in terms of his or her success in executing (one of) the life plans he or she would have chosen under ideal conditions.

The Original Distributive Ideal is held by the members of both societies to be the single fundamental principle of a single-component conception of justice. That is, both the Fertileans and the Barrenians think that the Original Distributive Ideal not only represents a conception of basic distributive fairness, but also that it is directly action-guiding, in the sense that the exercise of coercion is justified whenever necessary to realise and maintain the ideal.
Now, although the river separating the two societies is wide, it does not stop people from either society frequently travelling across it (mostly by boat, let us say, until they get round to building bridges) and mingling with the people on the other side. The societies members’ common belief in the validity of the original distributive ideal leads them at a very early stage in their development to decide to share between the members of both societies any benefits generated by social and economic advances made by either society so that the distribution of opportunity remains equal across all individuals in Riverworld. (For now, at least, I am not concerned with how such sharing is conducted and coordinated. Perhaps Fertileland and Barrenland are small enough so that inter-societal institutions are unnecessary for regulating and maintaining equality, or perhaps not. It is important, though, that both societies retain their distinct group identities. This prevents any inter-societal transfers that do occur, whether institutionalised or otherwise, from being seen as establishing a single super-society.)

At a certain point in time (T1), the level of development of the two primitive societies is the same, but it is very low. (I shall label this low level of development ‘level 1’ on an arbitrary scale that is simply meant to represent increasing levels of social, economic, technological and cultural development. Although what we really care about is the effectiveness of the opportunities for well-being that each individual has in this scenario, it is not, I think, unreasonable to take a society’s level of development as a proxy for the effectiveness of the opportunities that are generally provided to people in that society, at least for the purposes of this discussion).

Over time it becomes obvious that, for a number of reasons, (none of which relate to any relevant moral difference between the members of the two societies) the share of the societies’ combined benefits generated by the Fertileans is three times that generated by the Barrenians. The Fertileans are aware of their own society’s higher productivity, but they do not complain, because the Barrenians are doing the best they can with their less fertile land, and it would therefore be unjust to demand more than an equal share of the benefits they are jointly, but unevenly, producing.
The speed of development is slow to begin with and it takes a thousand years until, at T2, the societies have developed to level 99 on the objective development scale. The speed of development is always increasing, however, and so it only takes another year, at T3, for both societies to have reached level 100. Importantly, whatever level of development one of the societies reaches, the other society will also be at that level, because of their joint commitment to sharing the benefits of development equally. Assuming that the Fertileans and the Barrenians are right about the content of the original distributive ideal, it seems uncontroversial that the distribution of opportunities for well-being in Riverworld is just. The scenario can be represented thus:

Mountainworld Scenario 1

Now imagine a different world, Mountainworld, exactly like Riverworld in all respects except that, instead of an easily traversable river dividing the two societies, there is an impenetrable mountain range (impenetrable because it is too high/too treacherous to climb, and because the kinds of machines that would be able to fly over them are not yet invented). Because of the mountains, nobody in Fertileland or Barrenland knows of the existence of the other society. But, since all other details about Mountainworld are the same as Riverworld, at T1 both societies (which retain their egalitarian views of justice) are again at a development level of 1.

Time passes on Mountainworld and after a thousand years, at T2, Fertileland has advanced to a much higher level of development than Barrenland. Recall that, at T2 on Riverworld, both societies had advanced to the same level, level 99, because the
joint product of both societies was shared equally between Fertileland and Barrenland. In Mountainworld, however, no such inter-societal sharing takes place – the possibility never occurs to the members of either society because of the epistemic barrier represented by the mountains. Thus, at T2 on Mountainworld, Fertileland finds itself at level 150 while Barrenland has only managed to develop to level 48 (and at T3, a year later, I shall imagine that both societies develop a further stage, to 151 and 49 respectively. This developmental step obviously does not quite fit the general pattern of Fertileland’s threefold advantage over Barrenland, but it is useful to keep the sum of the two societies’ level of development (200 at T3) the same across both worlds, and it is easier to keep to whole numbers). The scenario on Mountainworld can be represented thus:

Now, in the previous scenario on Riverworld, I said that the distribution of opportunities for well-being (at T1, T2 and T3) was just, because the individual members of the world as a whole had equal opportunities for well-being at all times. I also said that, ex hypothesi, this equal share of opportunities for well-being is in fact what justice demands (the original distributive ideal is correct), and this is independent of whether the Fertileans and the Barrenians know it (although I have obviously constructed the example so that they do know it, and act accordingly). In Mountainworld, however, the distribution of opportunities for well-being between the two societies at T2 and T3 has become extremely unequal. This implies that, unlike the distribution on Riverworld, the distribution on Mountainworld at T2 and T3 is unjust. Is this right? To answer this question it will help to imagine a second scenario on Mountainworld.
Mountainworld Scenario 2

At T1 the situation in the second scenario on Mountainworld (M2) is identical to the situation at T1 in the first scenario on Mountainworld (M1): Fertileland and Barrenland, both at a primitive ‘level 1’ stage of development, are cut off from each other by the mountain range. Time passes on M2 and, just as in M1, Fertileland develops at three times the rate of Barrenland. The difference this time, however, is that shortly before T2 (almost a thousand years after T1) a group of hikers from Barrenland chances upon a hitherto secret passageway through the mountains. Following the passage they eventually come out the other side to find a much more advanced society before their eyes – Fertileland. The Barrenian explorers explain the situation to the Fertileans and a reciprocal party from Fertileland travels over to Barrenland to verify the story.

Whatever else the people of the two societies think on discovering that they are neighbours, it soon becomes clear to all that the deviation from the original distributive ideal represented by the large inequality between Fertileland and Barrenland would never have been allowed to happen had they been fully aware of the situation from the start. The Barrenians are particularly aware of this fact, and they begin to put pressure on the Fertileans to transfer to them whatever goods will rectify the arbitrary inequality between the two societies. The Fertileans feel the force of the Barreanians’ demands – after all, they share the same view of what justice requires – but they can’t help feeling that there is nevertheless something unfair about the situation they find themselves in. If only, think the Fertileans, the full details of the situation on M2 had been revealed two or three generations earlier or later, then the life plans adopted and cherished by the current generation would not have faced the massive disruption that now threatens them in the face of what the Barrenians see as their just demands. They realise, of course, that a similar complaint could and would have been made by whichever generation of (suitably economically advanced) Fertileans had been alive when the Barrenians made contact. But this thought merely supports their view that it is unfair to
expect any particular generation of Fertileans to sacrifice (what they see as) their legitimate expectations and bear the full costs of restoring justice in M2.

Reasoning in this way, the Fertileans present an argument to the Barrenians which they hope will satisfy everyone. Far from rejecting the original distributive ideal, the Fertileans affirm its importance, but they suggest to the Barrenians that the restoration of equality should not be put into action immediately (by ‘immediately’ I mean as fast as is practically feasible, which, I shall assume, covers a period of one year, the time between T2 and T3). Rather, they suggest, equality should be seen as a long term aim for the inhabitants of M2, a distributive goal to be achieved gradually over several generations. Such a policy, say the Fertileans, would see that justice was eventually done on M2, but in such a way that would avoid the need for radical restructuring of Fertilean society and the disruption of the current generation of Fertileans’ life plans that would accompany it.

The Barrenians see the logic of the argument put forward by the Fertileans, but they are not sympathetic to its conclusion. Why, say the Barrenians, should the current generation of Barrenians miss out on opportunities for well-being that are rightfully theirs, according to justice, simply so that the current generation of Fertileans do not have their life plans disrupted? The Barrenians point out that the Fertileans agree with them about two things: that distributive justice is concerned with the idea of giving people their due; and that what people are due is determined by working out what an equal distribution of opportunities for well-being amounts to. There is no room in the shared conception of justice represented by the original distributive ideal, say the Barrenians, for the Fertileans’ special pleading. Moreover, although the maintenance of the original distributive ideal was, in the past, a consensual matter within each distinct society, the Barrenians will have no hesitation in this new situation in invoking the connection between justice and coercion in order to justify an attempt to forcibly take from the Fertileans that to which they believe they are entitled if the Fertileans continue to refuse to hand it over voluntarily.
The Barrenians argument is a powerful one, especially as it appears to use the Fertileans’ own view about justice against them. I said earlier that the Fertileans’ view of justice does not affect what justice is – I have assumed, in other words, a non-relativist position – but, nevertheless, the Fertileans’ bargaining position is inevitably weakened by the fact that they have manifested a belief in the correctness of the original distributive ideal in their previous actions. The question, then, remains: does the fact that the distribution at T2 on M2 is a long way from the distribution recommended by the original distributive ideal mean that the Fertileans must give in to the Barrenians’ demands to transform the distribution into what it should and would have been had it not been for the fact that the two societies are divided by a mountain range rather than a river?

Seeing that the problem with their original attempt to escape this conclusion lay in the fact that they left the original distributive ideal intact, the Fertileans try a different strategy which, they hope, will allow them to consistently maintain their belief that justice demands equality (thereby enabling them to maintain that they have always acted according to what they thought justice demanded in the past) while at the same time avoiding the conclusion that what they owe collectively to the Barrenians represents such a big proportion of their total wealth that it threatens to render their individual plans of life – on which many of them will have invested huge amounts of time and effort – no longer viable. The potential way out involves modifying the original distributive ideal itself so that, on one hand, their past actions remain consistent with it while, on the other hand, it can no longer be used by the Barrenians as a means of justifying their threat to appropriate so much of the benefits that contribute to Fertileland’s current level of development.

The original formulation of the ideally just distribution stated that a distribution is just when opportunities for well-being are distributed equally between all individuals, regardless of where these individuals reside. The Fertileans (and the Barrenians) thought they were living according to this conception up until T2, at which point the discovery of the passageway between the mountains revealed the full picture. Now the
full picture has been revealed, however, the Fertileans do not think the Barrenians have the right to coerce them into restoring equality across M2. This suggests that they think the correct principle of justice incorporates some constraint on the demands that can be made of particular individuals in the name of equality. The Fertileans suggest a modified formulation along these lines:

Modified Distributive Ideal: a distribution is just when the only reason that opportunities for well-being are distributed unequally is that coercively enforcing a more equal distribution would have an unacceptably adverse impact on the continued ability of one or more individuals to pursue their life plans.

By modifying the distributive ideal in this way the Fertileans hope to be able to explain how it is that their willingness to maintain an equal distribution in their society between T1 and T2 is consistent with their unwillingness to equalise the distribution between Fertileland and Barrenland immediately after T2 (i.e. between T2 and T3). The following diagram compares the two solutions to the inequality in M2 offered by the Barrenians’ and the Fertileans:

![Diagram comparing two solutions](image-url)
Whether the Fertileans’ appeal to the ‘unacceptably adverse impact’ of any attempt to enforce equality carries any normative weight is a question I shall come to shortly. Before that, I want to note that the Fertileans’ ‘solution’ to the problem they face is essentially to build a personal prerogative into the formulation of the distributive ideal. I have already explained in chapter 6 what the problem with this move is. The ‘modified distributive ideal’ effectively redefines the unequal distribution that exists at T3 as fully just, because the only reason the distribution at that time is not equal is because any attempt to enforce equality would have had an unacceptably adverse impact on the ability of some of the Fertileans to pursue their life plans.

What the Fertileans should have done instead is invoke the dual-component model of justice. Rather than incorporating the personal prerogative *within* the distributive ideal, what they could, and should, have done is build it into a principle or set of principles that are entirely separate from the distributive ideal (i.e. the interactional component of justice). In the context of the scenario on world M2 the advantage of separating the interactional component of justice from the distributive component of justice is clear. By retaining the egalitarian ‘purity’ of the *original* distributive ideal we retain our ability to celebrate any move towards greater equality as a move towards a more just distribution. At the same time, however, by using the interactional component to restrict the stringency of the *demands* that can be made of those who are well-placed to advance the distributive ideal, we incorporate respect for the separateness of persons and acknowledge the fact that, when the epistemic barrier which prevented the achievement of justice in the past is lifted, there are more just and less just ways of assigning responsibility for restoring distributive justice.

Does the Fertileans’ appeal to the unacceptable disruption to life plans carry any normative weight in response to the Barrenian’s claim to have opportunities for well-being across Mountainworld immediately equalised in line with the egalitarian principle expressed in the original distributive ideal? I shall assume for the sake of argument that the empirical claim that lies behind this appeal is correct. The move towards equality that the Barrenian’s are demanding will inevitably require a huge transfer of resources
from Fertileland to Barrenland, and it is unlikely that such a transfer could be conducted without massive disruption to the life plans of the Fertileans. The most obvious and immediate effect will be the collapse of many of the businesses and industries in which the Fertileans work, which in turn will effectively end many of their careers as a result. The loss of income on such a massive scale will make it harder for all Fertileans to pursue their non-work-related projects, and there may be less direct consequences that follow in the wake of this economic shock – such as social and political instability – which cause people to feel unsafe and mistrustful of one another. The one thing that it might be hoped would survive the impact of the transfer would be the personal relationships of Fertilean citizens, but even these may come under severe strain as familial incomes are drastically reduced and the related social, political and economic problems make it harder to sustain a wide network of relationships.

Of course, any reduction in the overall effectiveness of the opportunities for well-being that the Fertileans have will be no more than is required to bring the opportunities of the Barrenians up to a similar level. But assuming this level of convergence is significantly lower than the level currently enjoyed by the Fertileans (an assumption that is more likely to be true if the population of Barrenland is much higher than the population of Fertileland), then the changes to Fertilean society that are necessary to effect the required reduction, and the impact these changes will have on the lives of Fertileans, will inevitably be fairly dramatic.

When viewed purely from the impersonal standpoint, the Barrenian’s claims of justice to an equal distribution of opportunity for well-being clearly seem to override the unfortunate consequences that will befall the Fertileans as a result of any attempt to satisfy these claims. From the impersonal standpoint, as far as justice is concerned, the Fertileans have up until now been enjoying opportunities that they were not strictly entitled to. They may not be blameworthy for this (how could they have known?) but this doesn’t change the fact of the matter. Viewed from the personal standpoint, however, the dictates of justice are not so unequivocal. Life plans that have already been formed and which are already being lived have a special significance for those who
are living them. I believe that this fact generates a characteristically deontological requirement to be especially respectful of the normative significance of important projects that people are already pursuing and to which they have already devoted much of their short (in the grand scheme of things) lives. Our natures as purposive beings with only one life to lead means that we are entitled (within limits, as I mention below) to a certain degree of ‘stability of expectation’ – the expectation that our lives as we know them, and as we have worked to create them, will not be interfered with in such a dramatic way that we can no longer identify with or find value in what we do.

This deontological requirement is supplemented by the consequentialist consideration that, without some degree of stability of expectation, the basic value of any human life is diminished. What makes having opportunities for well-being valuable is the fact that they are used – to pursue plans and projects, to form attachments and allegiances, and to create a life that one can identify with, in a deep sense, as one’s own. Some degree of stability of expectation is a necessary precondition of these basic elements of a good life. A similar point is made, far more eloquently, by Bernard Williams:

[At some point] one reaches the necessity that such things as deep attachments to other persons [as well as other things that are valuable from the personal standpoint] will express themselves in the world in ways which cannot at the same time embody the impartial view, and that they also run the risk of offending against it…They run that risk if they exist at all; yet unless such things exist, there will not be enough substance or conviction in a man’s life to compel allegiance to life itself. Life has to have substance if anything is to have sense, including adherence to the impartial system; but if it has substance, then it cannot grant supreme importance to the impartial system, and that system’s hold on it will be, at the limit, insecure.228

It is clear that the strength of the claim to a certain degree of stability of expectation depends to an extent on the severity of the deprivation of those whose situations could be improved by destabilising these expectations. The stable future of

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well-off persons is clearly more or less irrelevant when others face the immediate threat of serious suffering or death. But when the deprivation of others is less severe, the normative relevance of any potentially significant disruption to life plans that have already been formed and are already being lived creeps back in. My suggestion is that people have a claim of justice to a certain stability of expectation that can only be entirely overridden by the manifest suffering, rather than the merely unequal opportunities, of the disadvantaged. This is the truth in the Fertileans’ argument, and it is a truth to which the interactional component of justice must respond.

VI. Conclusion

In this chapter I have considered several different ways in which the interactional component may be thought to place limits on the permissibility of various attempts to realise the ideal of basic distributive fairness that forms the content of the distributive component. I distinguished questions about the rational desirability of various coercive strategies from questions about the intrinsic injustice of these strategies, and argued that the principles of the interactional component must be sensitive to both types of consideration. From the perspective of the distributive component itself it seems rational to design the principles of the interactional component so that they prohibit any coercive strategies that do not achieve the highest feasible level of equality, and to permit any coercive strategies that are necessary in order to achieve any further pareto improvements. These rationally-grounded permissions and prohibitions are themselves subject to the intrinsic justice/injustice of the coercive strategies in question. And here there is likely to be a wide range of considerations to take into account.

I have only discussed two such considerations. The first is the limit that must be placed on the exercise of coercion when such coercion threatens to violate persons’ freedom of occupation. The second is the limit that must be placed on the exercise of coercion when it threatens to undermine what I referred to as persons’ ‘stability of expectation’. I do not claim that these considerations themselves represent fundamental principles of the interactional component of justice; perhaps there is some more basic
principle that constitutes the content of the interactional component that is capable of capturing the intuitive concerns underlying both considerations (and perhaps more besides). My more modest aim was merely to provide some examples of the kinds of consideration that might be thought to generate reasons for limiting the pursuit of the distributive ideal, and thus ultimately to form the content of the interactional component of justice.
(9) Conclusion

I began this essay by setting out what I referred to as the ‘global justice trilemma’. The trilemma arises from the mutual inconsistency of three claims that, taken on their own, seem intuitively plausible. As I originally formulated them the three claims stood as follows:

(a) **The distributive claim:** The current global distribution of material and non-material goods is radically unjust. Those who are badly-off under the current distribution have a claim to redistribution which, if satisfied, would lead to a significant increase in justice.

(b) **The conceptual claim:** The claims that people have as a matter of justice, unlike claims grounded in other moral values, entail the existence of strong, enforceable duties on others to respect or satisfy these claims.

(c) **The duty claim:** Relatively well-off individuals do not have strong, enforceable duties to make the kinds of significant changes in their lives that would be required in order to eradicate global injustice.

One obvious response to the mutual inconsistency of the distributive claim, the conceptual claim, and the duty claim is simply to reject one (or more) of them. In chapters 2 and 3 I considered what I take to be the most promising versions of this ‘rejectionist’ strategy – the statist version and the nationalist version – and found both of them wanting. I then argued that, rather than rejecting one or more of the claims, a preferable response to the trilemma would be to show how all three claims can be simultaneously endorsed. My aim in chapters 4-8 was to defend this ‘accommodationist’ strategy by demonstrating how the concept of justice could be plausibly interpreted according to what I call the dual-component model of justice. In this concluding chapter I assess the extent to which I have succeeded in achieving this aim.
Taking each claim in turn I will ask whether the truth of the claim as it was originally formulated is consistent with the dual-component model interpretation of justice. If the truth of all three claims as originally formulated is consistent with the dual-component model, then my proposed accommodationist response to the trilemma will be straightforwardly vindicated. If the truth of one or more of the claims as originally formulated is *not* consistent with the dual-component model, then consistency may still be achievable through a slight modification of the way in which the claim(s) in question is formulated. As we shall see, some such modifications are indeed necessary in order to achieve consistency and thus vindicate my accommodationist strategy. This should not be surprising. As I made clear in the introduction, my initial presentation of the trilemma was intended as a starting point for discussion. Any attempt to formulate the three claims of the trilemma more precisely at that point would have arbitrarily restricted the terms of the discussion and begged a whole range of important questions. Now, however, when we ask whether the truth of the claims is consistent with the highly specific and complex conceptual framework represented by the dual-component model, it is quite proper that some of the claims require a more precise reformulation. What is crucial is that these reformulations involve only minor changes that do not substantially alter the meaning of the original claims. As long as this is the case, and consistency between the truth of the three claims and the dual-component model of justice can be achieved, then my goal of accommodating all three claims within a single conceptual framework and thus dissolving the trilemma will have been realised.

I begin with the distributive claim. If we focus initially on assessing the truth of this claim purely from the perspective of the distributive component of justice, and as long as we agree that the content of the distributive component is given by the principle of equality or opportunity for well-being that I defended in chapter 7, then the distributive claim is obviously true. The current global distribution is a long way from satisfying such a demanding egalitarian principle. But of course, the principle of equality of opportunity for well-being is only one possible conception of the content of the distributive component of justice. On a different conception, say, one that held that the
content of the distributive component is given by some kind of very minimal sufficiency principle, it might not be quite so obvious that the global distribution is \textit{radically} unjust (indeed, it is possible that on some conceptions of the distributive component the global distribution may not be considered unjust in the slightest, though such a conception would surely lack plausibility). From this we can see that the distributive claim is only contingently true, not necessarily true, when justice is interpreted in terms of the dual-component model; the global distribution will only be considered radically unjust according to the dual-component model if the content of the distributive component is sufficiently demanding. This is the first qualification that must be made to my claim that the dual-component model is consistent with the truth of the distributive claim.

The need for a second qualification to be made to this claim arises when we no longer focus purely on the distributive component but rather consider both the distributive and the interactional component of justice together. Recall that, according to the dual-component model, the satisfaction of the distributive component is not sufficient on its own to guarantee the justice of a distribution; it must also be the case that the satisfaction of the distributive component is brought about in the right way (i.e. without violating the constraints on justified coercion specified by the interactional component). Bringing about global equality of opportunity for well-being through, for example, the temporary mass enslavement of the wealthy will, if it is done effectively enough, bring about basic distributive fairness, but it will not bring about a perfectly just distribution. This fact calls for a slight modification (indicated by the use of italics, below) of the distributive claim as originally formulated:

\textbf{(a')} \textbf{The (modified) distributive claim:} The current global distribution of material and non-material goods is radically unjust. Those who are badly-off under the current distribution have a claim to redistribution which, if satisfied \textit{in a morally acceptable way}, would lead to a significant increase in justice.
While the role of the distributive component is to help us determine exactly how unjust the current global distribution is compared to the ideal of basic distributive fairness, the role of the interactional component is to tell us what counts as a ‘morally acceptable’ way of responding to this injustice in order to realise a distribution that matches, or at least matches more closely, the ideal of basic distributive fairness. Strictly speaking, therefore, the dual-component model does not endorse the truth of the original distributive claim since there are ways of satisfying the ‘claims to redistribution’ of the badly-off that would not necessarily result in a significant increase in justice (because the result would be infected with injustice as a result of the violation of the interactional component). However, I think it is fair to say that the proposed modification to the original distributive claim does not alter the core meaning of the claim in any significant way, and, crucially, I suspect that the vast majority of those who held the claim to be true beforehand will continue to hold it to be true in its modified form. With this qualification and the last duly noted, I therefore conclude that the dual-component model of justice is indeed consistent with the (modified) distributive claim.

I now turn to the conceptual claim. Here we need to ask whether it remains true, when justice is interpreted according to the dual-component model, that claims of justice entail strong, enforceable duties. The problem we face is that according to the dual-component model claims of justice come from two directions, as it were. On the one hand, people have claims of justice to receive what they would get under a distribution that matched the ideal of basic distributive fairness. On the other hand, people have claims of justice to be treated in a way that is consistent with the non-violation of the principles of justified coercion. As originally formulated, the conceptual claim implies that the various claims people have that are grounded in these two different components of justice will entail enforceable duties on others to satisfy these claims. But I have argued that when attempts to enforce the duties that arise from the distributive component come into conflict with the principles of justified coercion that constitute the interactional component of justice, the latter should take priority. The
implication is that claims grounded in the distributive component of justice do not, in fact, entail the existence of enforceable duties. Since this directly contradicts the conceptual claim as originally formulated it would appear that the dual-component model of justice is not in fact compatible with the conceptual claim, and that as a consequence I have failed in my aim of showing that the dual-component model enables us to adopt an accommodationist strategy in response to the global justice trilemma.

Before conceding defeat too quickly, however, it is worth asking whether the conceptual claim can, just like the distributive claim, be modified in such a way so that, without altering the core meaning of the claim, it can be made consistent with the dual-component model. As a first step towards this goal we might note that the duties that arise as a result of the distributive component are at least presumptively enforceable. This presumptive enforceability of the duties arising from the distributive component goes some way towards vindicating the conceptual claim, for whereas in the case of most ‘non-justice’ moral duties we require a further reason to explain why the coercive enforcement of such duties is justified, the presumptive enforceability of duties arising from the distributive component means that no further reason is required to justify their enforcement, and indeed a reason must be given to explain why the coercive enforcement of such duties in a particular situation is unjustified. The link between justice and coercion to which the conceptual claim draws our attention is thus partly vindicated by the fact that, according to the dual-component model, duties grounded in justice, unlike duties grounded in other moral values, are at least always presumptively enforceable.

The mere fact that duties grounded in the distributive component of justice are presumptively enforceable is not enough on its own, however, to fully vindicate the conceptual claim. This is because the normative force of the presumption in favour of enforceability can range from very weak to very strong, and this has implications for the plausibility of the purported link between justice and coercion. For instance, if the presumption in favour of the enforceability of the duties grounded in the distributive
component was only very weak, then their enforceability would be capable of being overridden by a wide range of (justice-related and non-justice-related) moral concerns, as well as perhaps a whole range of non-moral concerns. In this situation I think we would have good reason to reject the conceptual claim altogether when justice is interpreted along the lines of the dual-component model. The claim that there is a close conceptual link between justice and coercion would ring rather hollow if the coercive enforcement of duties of justice was only justified in what would presumably be the fairly narrow range of cases in which such enforcement did not conflict with any countervailing practical consideration whatsoever. If, on the other hand, it can be demonstrated that the presumption in favour of the enforceability of the duties grounded in the distributive component is much stronger, then the grounds for maintaining that there is in fact a close conceptual link between justice and coercion will also prove to be that much stronger.

I have argued not simply that the presumption in favour of enforceability is ‘very strong’ in the case of the duties that arise from the distributive component, but that the only circumstances in which the presumptive enforceability of such duties can be overridden is when such enforcement conflicts with the fulfilment of other claims of justice. According to my particular interpretation of the way in which the two components of justice interact, the duties that arise in response to claims grounded in the interactional component automatically take priority over duties that arise as a result of the distributive component. Different interpretations of the order of priority between the two components of justice are of course possible. The important point is that, according to the dual-component model, the only occasions when claims of justice do not directly give rise to enforceable duties is when the enforcement of such duties is incompatible with the fulfilment of duties that arise from prior claims that are also claims of justice. If this is right, then it does not constitute grounds for rejecting the conceptual claim out of hand. Unlike the notion that the enforceability of duties of justice can be overridden by duties grounded in a wide range of competing (moral and non-moral, justice and non-justice) considerations, the claim that the enforceability of duties of
justice can only be overridden by other enforceable duties of justice does not challenge the close conceptual link between justice and coercion. It does, however, call for a more careful restatement of the conceptual claim along the following lines:

(b') **The (modified) conceptual claim:** The claims that people have as a matter of justice, unlike claims grounded in other moral values, entail the existence of *presumptively* enforceable duties on others to respect or satisfy these claims. *The presumptive enforceability of such duties is only defeated when it is incompatible with the fulfilment of duties arising from prior claims of justice (where the 'relationship of priority' between competing claims of justice is given by a particular conception of justice).*

It is worth emphasising once again the unique aspect of the dual-component model that gives rise to the need to modify the conceptual claim in this way. The idea is this: when a duty generated in response to a claim grounded in the distributive component is rendered unenforceable (because it conflicts with the fulfilment of a duty that arises in response to a claim grounded in the interactional component), then the *original claim* (the one grounded in the distributive component) does not cease to exist or to exert any normative force. Were this not the case – were it the case, in other words, that the original distributive claim *ceased to exist* once its enforcement was deemed incompatible with respect for the interactional component – then the conceptual claim could be maintained in its original form, for in this case it would be true that every genuine claim of justice gives rise to an enforceable duty to satisfy or respect it. As I have argued at length, however, there is much to be said for the ability to recognise the continued validity of a claim grounded in the distributive component even when the coercive fulfilment of such a claim is no longer justified. The new and rather unwieldy formulation of the conceptual claim that is necessary as a result is, I think, a small price to pay for this theoretical advantage.
I have now shown that the distributive claim and the conceptual claim are both consistent, albeit in slightly modified form, with the dual-component model of justice. I now turn my attention, finally, to the duty claim. The question that concerns us here is whether the dual-component model is consistent with the claim that relatively well-off individuals do not have strong, enforceable duties to make the kinds of significant changes to their lives that are necessary to rectify the injustice of the global distribution. If it can be shown that the dual-component model is consistent with this third and final claim, then the accommodationist response to the global justice trilemma will itself be vindicated.

It seems clear that the answer to our question about the consistency of the duty claim and the dual-component model depends on the particular conception of the dual-component model that one holds. That is to say, there is no necessary entailment from the premise that justice should be formally interpreted according to the dual-component model to the conclusion that well-off individuals do not have a strong, enforceable duty to make significant changes to their lives in response to the radical injustice of the global distribution. Assuming for instance that the global distribution is indeed condemned as radically unjust by the distributive component, it is a separate question how far the principles of justified coercion as specified by the interactional component will serve to limit the liability of the well-off to any justified coercive intervention carried out in the name of bringing about global distributive fairness. The answer to this separate question can only be determined by working out the content of the interactional component of justice in detail.

I have not attempted to provide any such detailed specification of the content of the interactional component in this essay. Although in chapter 8 I analyse some considerations that are potentially relevant to such a task, my discussion leaves open the question whether the content of the interactional component of justice is such that the well-off members of the global population do in fact have strong, enforceable duties to make significant changes to their lives in response to what has antecedently been judged, through the application of the distributive component, as a radically unjust
global distribution. However, what is important for now is the fact that the dual-component model of justice is consistent in principle with the duty claim (and unlike the other two claims this is true without any modification of the original formulation of the duty claim).

My aim in this concluding chapter was to demonstrate how the three claims of the global justice trilemma – the distributive claim, the conceptual claim, and the duty claim – could be simultaneously endorsed when viewed from the perspective of a single, unified theory of justice, namely, the dual-component model of justice. Taking each claim in turn I have shown that the dual-component model is in principle consistent with all three of them, and therefore that it is indeed possible to simultaneously endorse all three claims of the trilemma. The result is that the trilemma itself dissolves once justice is interpreted according to the dual-component model.

More generally, in order to explain and motivate the dual-component model I have had to take a long detour away from the more immediate problems of global justice with which I started and into a highly abstract discussion of the conceptual foundations of distributive justice itself. The reason I felt this was necessary derives from the general lack of clarity and understanding in the literature about (a) what exactly distributive justice is and (b) what a theory of distributive justice is meant to achieve. Such a lack of clarity has led to much confusion in the literature and has caused many theorists to talk at cross-purposes, if not directly past one another. Rather than simply throwing another conception of justice, and hence another possible source of confusion and misunderstanding, into the mix, I have tried to be as clear and explicit as possible about what I take the theory of distributive (and therefore global) justice to be about.

Of course, I hope the reader will agree that the dual-component model itself presents a fruitful way forward in the debates over global justice. But even if this turns out to be overly optimistic, I hope that the schema I have set out in the preceding chapters for categorising the four interpretations of the concept of justice will encourage others to refine these interpretations, and perhaps even prompt political
theorists to be clearer in future what they mean when they talk about distributive justice, global or otherwise.
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