Idealization, Indeterminacy, and Experimentation

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1. Introduction

A well-known complaint regarding ideal theory in political philosophy is that normative structures (e.g., principles of justice, institutions, policies, conventions) selected under idealizing assumptions will be inappropriate, and possibly disastrous, if implemented in our non-ideal world.[1] In this paper I argue that ideal theory has another problem: it leaves us unable to provide determinate answers to certain basic questions in political philosophy. The reason for this is that answers to these questions depend in part on empirical information that is unavailable under ideal theory. Because answers to these questions are fundamental to theorizing about justice, ideal theory faces a serious obstacle. To overcome that obstacle, I argue that we need actual experience with a wide range of the normative structures on offer from various ideal theories, and briefly describe how such "experimentation" might take place.

2. Ideal Theory

To engage in ideal theory in political philosophy is to simplify in a specific way some of the subject matter studied in political philosophy. Such simplification is common in many forms of inquiry. In classical economics this simplification may take the form of certain behavioral assumptions. In physics this simplification may take the form of simulations based on idealized models.

The template for ideal theory in contemporary political philosophy was drawn up by John Rawls. Rawls describes ideal theory as theory for a "well-ordered society." A well-

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[1] See, for example, Murphy 1999.

ordered society has two main features. First, it is characterized by "strict compliance,"[2] which Rawls explains by saying that "everyone is presumed to act justly and to do his part in upholding just institutions."[3] Second, "basic social institutions satisfy and are known to satisfy" the principles of justice.[4] What is simplified by ideal theory, then, are two things: the behavior of individuals and the functioning of institutions. More specifically, when engaged in ideal theory, we are to assume of individuals (a) *compliance*: persons comply with the requirements of justice, and (b) *support*: persons support—actively, if necessary—the principles of justice and the institutions the principles require. Of institutions, we are to assume (c) *justness*: we have the right set of institutions, such that they publicly satisfy the principles of justice, and (d) *success*: institutions function well, such that their justness is not accidental but by design, nor marred by other serious deficiencies.

Why engage in ideal theory? One reason is that it helps us avoid the unwarranted conservatism that results from imparting too much weight to the status quo. Normative political philosophy must be responsive to descriptive reality, but it need not endorse such reality. Ideal theory gives us critical distance from our current arrangements and practical difficulties, allowing us to see how things might be different than how they are. Another reason—Rawls's main one—is that ideal theory provides "the only basis for the systematic grasp" of the problems that arise in our non-ideal world.[5] Only after we have a picture of the "perfectly just society"[6] can we both recognize problems (as deviations from this picture) and advance appropriate solutions (that will adjust society, in the right way, to this picture).[7]

Ideal theory, then, uses simplifying assumptions as a means for overcoming bias in favor of the status quo and for identifying the theory of justice society should strive to achieve. Later in the paper I will provide some reasons to think that the means of ideal theory are not conducive to its ends, that through their employment ideal theory is self-

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[2] Rawls 1999, 8.
[3] Rawls 1999, 8.
[4] Rawls 1999, 397.
[5] Rawls 1999, 8.
[6] Rawls 1999, 8.
[7] Rawls 1993, 285.

defeating. However, since we can identify the ends of ideal theory, when we realize that there are problems with its means, we can engineer alternative means to those ends.

3. Empirical Information in Normative Theory: An Example

The simplifying assumptions introduced by ideal theory replace certain empirical information about persons, institutions, and societies. In this section my aim is to draw attention to the significant and fundamental role empirical information plays in answering the kinds of questions we expect a theory of justice to answer—even those questions that are often thought to be answered by conceptual or *a priori* arguments. I do so by focusing on one specific such question, showing how centrally it is an empirical question.

 3.1 The Agency of Justice Question

Consider the question of who or what ought to be responsible for social justice, or who or what is a proper agent of justice. In the city of Nova Iguaçu, Brazil, there is a volunteer organization called the Chosen of the Light Social Services Center (CLC). The CLC provides food, shelter, medical attention, clothing and other goods and services to hundreds of poor people, including orphans, the elderly, single parents, and the disabled. Let us assume that our conception of social justice requires that these persons, the worst-off in society, be adequately fed, sheltered, and healthy. The CLC, then, is providing what we can call *goods of justice*.[8] And because of Nova Iguaçu's "wretched public services" it can be said that the CLC is providing these goods to persons who would not likely receive them otherwise.[9] Throughout the world, similar associations provide similar goods to similarly situated persons. This state of affairs prompts the question: are such associations appropriate agents of justice?

The common answer given by political philosophers to this question is "no." If the associations are what we can call *independent*—that is, they do not work with or under the direction of a state or government institution—they may be charitable or beneficent, it is thought, but they themselves are not legitimate agents of justice.[10] It is generally held

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[8] "Goods of justice" is to be construed broadly, so as to include, if necessary, both concrete goods (like food) and abstract goods (like opportunities).

[9] All information and quotes about the CLC and Nova Iguaçu are from Buckley 2001.

[10] According to Buckley, the CLC has recently begun working with its local government. For the sake of providing a clear contrast to the standard view of agency for justice, I will ignore this development and treat the CLC as what I have characterized as an independent association.

that the state, as embodied in government institutions, or through its structuring of social, political, and economic institutions, is the proper agent of justice. That is, social justice is a matter of either the correct arrangement and functioning of state institutions and agents, or that plus the state-enforced arrangement and functioning of non-state institutions and agents. As David Miller puts it, "theories of social justice propose legislative and policy changes that a well-intentioned state is supposed to introduce."[11] On Rawls's view, matters of social justice are taken care of by "background institutions" so that "individuals and associations are then left free to advance their ends more effectively within the framework of the basic structure, secure in the knowledge that elsewhere in the social system the necessary corrections to preserve background justice are being made."[12] These background institutions are described by Rawls as parts of the different branches of government.[13] Let us call this view about the agency of social justice *statism*.[14]

I will leave aside whether the statist answer to the question of the agency of justice is correct.[15] I am more concerned to suggest that this is an important question in political philosophy, and to show that certain empirical considerations are relevant in defending any plausible answer to it.

One way to go about showing that a question is important in a field of inquiry is to point to the high level of attention it has received. That would not be a very successful strategy here. The question of who or what could be an agent of justice has gotten

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[11] Miller 1997, 7.

[12] Rawls 1993, 269. It's true that individuals have duties of justice on Rawls's view, but these duties are indirect: to create and support just institutions which will do the work of justice.

[13] Rawls 1999, §43.

[14] While I am aware that "statism" has referred to many different specific positions in various disciplines, in this paper I restrict the use of the term to designate the family of views that hold that the state, understood in the contemporary sense as equivalent to the government, is the sole or chief proper agent of justice. In this my use is similar to that of Paul Hirst. (See, for example, Hirst 1997, 63.) There are varieties of statism. It may only be a totalitarian who could be called an *absolute* statist, one who holds that only the state and its assorted elements must directly bring about all that is necessary for justice. More common is what could be called *delegatory* statism, under which justice is achieved by a mix of state and law-bound non-state agents. Insofar as these non-state agents are specifically required by the state to act in certain ways, they act as agents of the state. Unless otherwise noted, when I use the term "statism" I mean the disjunct of absolute and delegatory statism and "state agents" to include those law-bound non-state agents positively acting in ways the law directs them to. Furthermore, note that statism comes in degrees. Assuming there are various discrete tasks of justice, a theory of justice could be more or less statist the more or less tasks of justice it requires be achieved by the state or its agents.

[15] It isn't, or so I argue in a paper in progress, "Who is an Agent of Justice?"

relatively little attention compared to other questions in political philosophy, such as which fundamental principles of justice are most acceptable, what is the nature of political obligation, or how liberty should be conceived.[16] However, the reason for inattention to this question is not that it lacks relevance to the topics that have preoccupied political philosophers. It is simply that, with few exceptions, there is widespread agreement with statism's answer to the question. Statism has gone largely unchallenged, achieving invisibility via obviousness. Though it is invisible, it is still operative in thinking about justice and the development of theories of justice. Were we to become convinced that statism is false, we would have to reconsider which principles of justice to accept, for presumably a set of principles of justice that are appropriate for certain social forms and agents may not be so for others.[17] This is why the question of the agency of justice is important. Answers to it tacitly set the agenda for the construction of theories of justice.

3.2 Attempts at Non-empirical answers

One way to head off my argument would be to show that no empirical information is needed to show that statism is the correct answer to the question of agency of justice. Perhaps, it may be asserted, there is a conceptual relationship between justice and the state. In which direction would a conceptual relationship between justice and the state run? Is the state defined in terms of justice or is justice defined in terms of the state? The former may be put this way: the state is that form of social organization aimed at justice. This is ambiguous between the descriptive claim that justice is what states *actually* aim at, and the normative claim that justice is what states are *supposed* to aim at. The former interpretation is unbelievable, at least as a generalization. The latter must confront the reality that states have been created for and thought to have a variety of ends, chief

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[16] Historically, it has most visibly been the preoccupation of anarchists. In the twentieth century, the question was taken up forcefully by so-called "Political Pluralists" such as G.D.H. Cole, John Figgis, and Harold Laski. The issue has been picked up again explicitly in discussions regarding the roles of non-governmental organizations in achieving global justice (e.g., Pogge 2006), the question of what principles of justice apply to (e.g., Cohen 1997, Murphy 1998, Williams 1998, Pogge 2000, J. Cohen 2001), defenses of traditional welfare state institutions (e.g., Goodin 1985, 1988), as well as indirectly through some of the literature on the importance of civic virtue.

[17] Note, for example, how specialized Rawls's principles of justice are. They are appropriate only for the *basic structure* of a *well-ordered*, *closed*, society confronted with the *circumstances of justice*. Rawls does not intend them to apply to other institutions or persons in their everyday lives.

among which may not be justice but the creation of order from chaos, or defense, or group identity.[18]

What if we reversed the relationship and defined justice in terms of the state? For example, we could say that social justice is the proper account of how a legitimately coercive entity (i.e., the state) may exercise its power in affecting the distribution of benefits and burdens in a society. The question of whether we should accept such a conceptual relationship is at the core of the recent dispute over whether individuals and institutions are subject to different kinds of fundamental practical principles, with so-called "monists" answering No and "dualists" answering answer Yes.[19] Rather than enter this dispute here, let me instead point to the widespread interest in matters of social justice that are not directly related to the exercise of coercive power. For example, one preoccupation of contemporary political philosophy has been the development of theories of civic virtue and deliberative democracy. The concern in these areas is not directly with what the state is doing or failing to do; rather, these schools of thought are based on the idea that social justice is at stake in the character and activities of individual citizens.[20] So I have plenty of company in rejecting the idea that social justice can be defined in terms of the state and what is under its direct control, alone.

A less direct case for a conceptual relationship between justice and the state might arise from an attempt to pick out which normative claims are claims of justice (as distinct from, say, claims of ethics, or friendship, or etiquette, etc.) Suppose we say that claims of justice are those normative claims compliance with which may be legitimately coerced. If we combine this normative delineation with a Weberian definition of the state (as the entity in a given territory that has a monopoly on the legitimate use of force), the

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[18] Further, this account of the conceptual relation leaves open whether the state is the exclusive agent of justice or merely one of many. The exclusive interpretation begs the question. We should not resolve a substantive dispute in political philosophy by definition. Note that the exclusive interpretation would make any anarchist society necessarily unjust. Perhaps anarchism fails as a political theory, but if it does, it is because of the correctness of its substantive normative claims and practical recommendations, not as a matter of definition. If instead we take the non-exclusive interpretation, then this account leaves open the possibility of there existing many different agents of justice.

[19] Murphy 1998. Also see Cohen 1997 and Pogge 2000. My thoughts on this dispute are laid out in an unpublished paper called "Responsibility for Social Justice: Beyond Monism and Dualism."

[20] For an argument that individual character and activities are an important part of political theorizing, but not thereby part of the subject matter of justice, see Tomasi 2001.

result is indeed a conceptual link between justice and the state: claims of justice are those normative claims compliance with which may be compelled by the state.

There are two difficulties with this account. First, it is a mistake to define claims of justice as those normative claims compliance with which may be legitimately coerced. This is a mistake because compliance with many kinds of normative claims unrelated to justice may nonetheless be legitimately coerced. For examples, consider administrative requirements (e.g., instructions on completing paperwork), the rules solving coordination problems (e.g., which side of the street to drive on), and policies that promote the interests of some at the expense of others (e.g., tariffs). On any understanding of justice which is not so overly broad as to be unusable, these kinds of claims are not claims about justice.[21] Nonetheless, they are the kinds of claims that we tend to think may be legitimately coerced. So this definition of justice will not do, and as a result, the conceptual link does not withstand scrutiny.

Second, even if there were such a conceptual link, it would not be a conclusive argument for statism. Stating that some normative claim may be legitimately coerced is not to say that it must be coerced. It may be possible or desirable that such claims be fulfilled by non-coercive entities, such as associations like the CLC.

One more argument I wish to consider in this section is offered by Kant. Kant writes:

> It is not experience from which we learn of the maxim of violence in human beings and of their malevolent tendency to attack one another before external legislation endowed with power appears, thus it is not some deed that makes coercion through public law necessary. On the contrary, however well-disposed and law-abiding human beings might be, it still lies *a priori* in the rational idea of such a condition (one that is not rightful) that before a public lawful condition is established individual human beings, peoples, and states can never be secure against violence from one another, since each has its own right to do *what seems right and good to it* and not to be dependent upon another's opinion about this.[22]

Here Kant argues that in the absence of enforced governance through a common public law, persons are in a position to impose their wills on one another, to attack each other. Even if no one chooses to impose her will on or attack another, such that people are in

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[21] Even if one thinks that the existence of things like burdensome bureaucratic paperwork or tariffs are unjust, that does not make requirements to comply with such paperwork and tariffs claims about justice. The reason for their existence, even in their advocates' view, is not the promotion of justice, but effective administration or the protection of interests.

[22] Kant 1996 (The Doctrine of Right, Part II, Public Right, §44, p.455-6).

fact free and safe, it is merely the choice, perhaps merely the whim, of potential attackers that provides such freedom and safety. Since would-be attackers would not be acting outside their legal rights when attacking (though, they would be acting wrongly according to Kant's moral theory), persons are not secure in the way justice requires.[23] The argument suggests that once a "public lawful condition," that is, a state, is in place, this condition of insecurity or vulnerability to "violence against one another" will disappear.[24]

Has Kant provided a successful non-empirical argument for an answer to the agency of justice question? No. First, it is not true that the creation of a state, even an ideally just one, eliminates maltreatment of some of its subjects by others; rather, it adds to the cost of such maltreatment, with such burdens as imprisonment, fines, and social stigma. Some people may be explicitly willing to bear these costs, others may pay no attention to them, as when they commit crimes of passion. The result is that even under a state we are not secure against attack by others. This leads to the second point, that Kant's suggested rationale for the state—that it would secure persons against violence from one another—is too high a bar. To be plausible, the rationale must be scaled back to something like: persons are *more* secure from attack by others once they are living within a state. In this form, the claim is clearly not *a priori*, as Kant believed, but empirical.

3.3 Empirically-based answers

While I have not shown there are *no* successful *a priori* arguments for an answer to the agency of justice question, I believe I have covered a sufficient enough sample to cast doubt that there could be one. This does not mean there are no good arguments for statism. If there are, they will be arguments that make use of empirical claims. Here I briefly describe three such arguments and show how they are empirical. They are the arguments from effectiveness, from accountability, and from exploitation.

The argument from effectiveness is straightforward, and straightforwardly empirical. It begins with the idea that a just society is one which guarantees its relevant members, in

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[23] Variants of this argument are offered by Rousseau, too, and in our own time by philosophers such Robert Goodin and Philip Pettit – though not as an *a priori* argument. See the passage on exploitation in the next sub-section.

[24] "This condition of the individuals within a people in relation to one another is called a *civil* condition (*status civilis*), and the whole of individuals in a rightful condition, in relation to its own members is called a *state* (*civitas*)" (The Doctrine of Right, Part II, Public Right, §43, p.455).

the right way, the goods of justice. It then makes the empirical assertion that a state is the kind of social entity best able to do this. Thus, our answer to the agency of justice question should be statism.

The argument from accountability takes accountability to the public as among the desiderata of an agent of justice. It then argues that state institutions—at least in democratic states—are usually accountable to the public in a way that private associations and other institutions are not. We thus have reason to prefer (democratic) state institutions over non-state ones. The argument from accountability is not always thought to be an empirical argument. Instead, one might hold first that we are restricting the scope of our argument for statism to *democratic* states; second, accountability is built into the idea of democracy; and third, private associations by definition are not accountable to the public, at least not to the relevant public, which is the general public, not a small part of it. That is, for the kind of state most of us endorse (democratic in some form or another), the accountability argument for statism can be made by appealing to the relevant concepts, not to empirical claims.

There are two problems with this kind of argument. The first is that while the *idea* of democracy may have accountability built into it, actual democratic state institutions may not. The second is that it is false that private associations are not accountable to the public. To see this, let us ask what is valuable in accountability. There seem to be two reasons to be interested in it, which we can dub "control" and "expression." Accountability helps us control people and organizations, steering them in the right direction, preventing or deterring them from acting wrongly, for example, abusing their positions and power. Accountability also, by connecting organizations and officers to the public, helps to make them vehicles for the public's expression of what is important.[25] Both private associations and democratic state institutions may exhibit varying degrees of adequate public control and expression. Private organizations are controlled by the public by the enactment and enforcement of laws that govern their behavior and that of their members. And in a democratic society the public expresses itself through the enactment of those laws. Furthermore, there are extra-legal means for control and expression. Publicity, private funding, boycotts, volunteering, the creation of rivals,

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[25] See, for example, Anderson 1993.

demonstrations, etc., are methods by which control can be exerted, and the people's will expressed.

On the public side, we can note that the accountability of democratic state institutions involves two parties—the government and the public—and correspondingly depends on two capacities: the capacity of the public to hold the government accountable and the capacity of the government to be responsive to the will of the public. The first capacity depends not only on appropriate institutional structures (e.g., positions occupied by elected persons, fair elections) but also certain traits of the public. For example, the public must be sufficiently knowledgeable about actual and available government activities and policies, government agents and their responsibilities, the structure of government, and so on, in order to exhibit control over it and to make sure its will is expressed. Further, the public must display some degree of civic virtue to be motivated to use this knowledge, and to be able to do so effectively. Since the presence of these traits is an empirical question, so, then, is the degree of accountability of democratic state institutions. The presence of the second capacity—that of the government to conform to the public's will—also depends on empirical considerations, such as common goals among public officials and ordinary people, the strength institutional interests exert on public officials, the extent of the difference between what ordinary people and public officials take to be in the public interest, and the capacity of state institutions to resist capture by special interests.[26]

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[26] Nordlinger, 1981. To elaborate a bit on this, Nordlinger's work is on the question of the extent to which democratic states exhibit "state autonomy," that is, the extent to which states act differently from how their citizens would want them to. He argues that democratic state autonomy is caused by a number of factors. I'll mention only three of the several he discusses. First, public officials have different policy concerns than ordinary people. While ordinary people tend to be focused solely with policy outcomes, officials are also concerned with the procedural costs and benefits of competing policy options. These include how policy options will affect one's relations with other officials and state units, or to what extent new policies may upset existing bureaucratic routines and practices. Second, public officials are members of agencies and bureaucracies, and thus have their own institutional interests to take into account alongside the public good. These interests include a variety of things, from expanding one's own budget, staff, and powers, to the maintenance of a pleasant work environment and keeping a relatively high position in the policy-making hierarchy. But Nordlinger's model does not assume that public officials always act in a self-interested manner. There are non-selfish reasons for the divergence between state and societal preferences. So, third, in comparison with ordinary members of society, public officials are more knowledgeable about policy problems, the likely short- and long-term effects of different policy options, obstacles to implementation, and so on. Public officials thus have a different perspective, make policy decisions differently, and ask different questions, all of which tends to exacerbate the difference between their views and their subjects'. Thus, even when public officials lay aside their personal and institutional concerns, and

So, along two key dimensions, an accountability based answer to the agency of justice question is empirical: the extent to which persons have the capacities required to control private and state institutions and use them as means of expression, and the extent to which private and state institutions are capable of conforming to the public's wishes.

One last empirical argument for statism I will describe concerns what Robert Goodin calls *exploitation*, or taking of advantage of someone who is vulnerable "when morally you are bound not to do so."[27] The exploitation argument for statism begins with the idea that one of the hallmarks of a just society is minimal exploitation. Exploitative relationships are marked by four features, according to Goodin. First, "the relationship must be *asymmetrical*," not one of mutual interdependence. Second, the dependent party "must *need* the resource that the [more powerful party] supplies." It is not some insubstantial or frivolous want that is to be fulfilled. Third, the dependent party "must depend upon some *particular* [more powerful party] for supply of the needed resource." The resource is not available through other means or providers. And fourth, that more powerful party "enjoys *discretionary* control over the resource" needed by the dependent party.[28] The next step is to argue that a society in which state institutions are the agents of justice is less exploitative than one in which non-state institutions are responsible for justice. This is exactly what Goodin does, arguing that when the welfare of the vulnerable is not the state's responsibility, assistance to them is treated "as a gratuity to which any number of strings might be attached, thereby putting those dependent upon such assistance at the mercy of the largely arbitrary will of those administering such assistance."[29] The state, in contrast, avoids exploitation "by making assistance to needy, dependent people largely nondiscretionary."[30]

Of course, the state's capacity for being nondiscretionary depends on many factors that may or may not be in place. Additionally, since discretion is a necessary but not sufficient condition for exploitation, the fact that non-state agents may exhibit discretion does not tell us whether they are exploitative, or to what degree they are. We need to

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purposefully focus on the public interest, their take on what is in the public interest is likely to be very different from what the public takes to be in its own interest.

[27] Goodin 1988, 125.

[28] Goodin 1988, 175-6. See also Goodin 1985, 195.

[29] Goodin 1988, 173-4. See also Schmidtz and Goodin 1998, 123.

[30] Goodin 1988, 177.

look at the other mentioned conditions of asymmetry, need, and particular dependence. This all calls for a fair amount of empirical information.

4. Ideal Theory, Agents of Justice, and Indeterminacy

So, any plausible answer to the agency of justice question will have to make use of some empirical information. In Section 2 I noted that under ideal theory we work under four assumptions: compliance, support, justness, and success.[31] How do these assumptions operate in answers to the agency of justice question?

A case could be made for statism. On the revised (empirical) version of Kant's argument, the justness assumption means that the laws regulating behavior are just. And according to the compliance assumption, these laws will not merely raise the cost of prohibited behavior through punishment, but eliminate such behavior, since on this assumption persons obey just laws. Kant's argument, then, would succeed. The argument from effectiveness claimed that the state is the most effective social entity for properly distributing the goods of justice. If we make use of not merely the compliance and justness assumptions but also the success assumption, we do not have to worry about, say, political interference or bureaucratic incompetence derailing this argument. Likewise with the argument from accountability. In particular, the support assumption takes care of the needed capacities of the people, eliminating concerns about voter ignorance and political apathy, while the justness and success assumptions eliminate concerns about state autonomy. As for the argument from exploitation, the justness assumption means the proper anti-exploitation rules and procedures will be in effect, and the compliance assumption will make sure that the officials of the state do not bend the rules, or fail to apply them, and the support assumption ensures they will not seek to otherwise find room for the discretionary component of exploitation. In short, at the level of ideal theory, the empirical demands of common arguments for statism are assumed to be met.

Does this mean that when theorizing about justice and other issues in political philosophy, we ought to be statists? An affirmative answer would be too quick, for we need to know whether the empirical demands of non-statist arguments are also met in

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[31] Described on page 2.

ideal theory. Let's call someone who denies statism a *pluralist*.[32] Pluralists, in this sense, deny that the state (construed complexly, so as to include those agents acting in contract with, or at the direction of, the state) is the sole legitimate agent of justice. Different pluralists might advance different views about who or what else might be a legitimate agent of justice. One kind of pluralist might hold that associations like the CLC are to be included, along with possible other kinds of social entities (including state institutions) among the proper agents of justice. Call this *associational pluralism*, since it draws attention to the potential justice-serving role of associations. Another kind of pluralism might modify this view so as to exclude state institutions as legitimate agents of justice. We can call this view *radical associationalism*, or RA. Is RA plausible under ideal theory?

Consider first the argument from effectiveness. One concern about RA is that its independent associations will not be as effective as state institutions in properly achieving the correct distribution of the goods of justice. However, this concern does not surface in ideal theory, since under the assumptions of justness and success we can imagine, for example, a well-functioning network of associations whose activities ensure that the goods of justice are reliably provided to the right persons in the right way. The assumption of support plays an important role here, too. On a statist view like Rawls's, according to which the institutions of justice are presumed to be background institutions supported through taxation, a person's support for just institutions may consist solely in paying one's taxes, and perhaps having positive feelings about the work such institutions do. But supporting other kinds of institutions might require more than that. For example, some associations (like the CLC) might be unsupported without people actively participating in them, through volunteering, staffing, and making contributions. Yet, insofar as we may assume that persons do their part to support just institutions, ideal theory allows us to assume the required amount of active participation. Similarly, the compliance assumption allows RA to meet the challenge posed by the empirical version of Kant's argument.

Regarding accountability, again the RA advocate can make use of the justness and success assumptions. The ideal society, according to RA, will involve a vast array of

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[32] On the use of this term, see note 16, above.

justice-serving associations, with a sufficient number of them organized in such a way so as to be responsive to voice and exit, [33] as well as competition. Some of the associations may be very democratic. Others may not be, but members, according to the compliance and support assumptions, may control them by leaving or threatening to do so. Competition from some associations may put some beneficial pressure on others. And the number of associations is great enough to ensure the inclusion of the general public, not just small parts of it, and to provide a variety of groups to match up with the diversity of views expressed among that public. Overall, the set of associations is presumed to include a mix of different organizational forms so that together they meet the control and expression elements of accountability.

Similarly, our idealizing assumptions stifle any worries about exploitation. The justness and success assumptions allow us to envision a large, effective, and diverse network of associations, such that even if they are somewhat discretionary in the disbursement of assistance to the vulnerable, they bring about less of the other necessary conditions for exploitation. That is, they are able to help enough people with goods and training that the number of those in need greatly decline; or there are so many of them that no one person is particularly dependent on a specific association. And we can bring in the compliance and support assumptions to avoid worries about any objectionable discretionary behavior that is not technically exploitative.

Under the assumptions of ideal theory, then, the RA answer to the agency of justice question, like the statist answer, can appeal to effectiveness, accountability, and exploitation. To put it another way, in ideal theory, the kinds of empirical concerns one might have about RA—that a network of associations could not be as effective at achieving justice as a state could, or that associations are not sufficiently accountable to the public, or that associations are more exploitative than state institutions—evaporate; they are assumed away. (And if you are not inclined to believe this about RA, consider its less radical cousin, *associative pluralism*, which, though it holds that state institutions may be among the set of legitimate agents of justice, is nonetheless a denial of statism.)

Earlier I argued that any plausible answer to the agency of justice question will rely on empirical information about institutional functioning and personal behavior. In this

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[33] Hirschman 1970.

section I have argued that under ideal theory, opposing answers to this question are equally supported by appeal to the relevant empirical considerations, as modified by the idealizing assumptions. Thus, under ideal theory, there is no determinate answer to the question, "who is a proper agent of justice?"

I am inclined to think this is a fairly serious problem. Different principles of justice are appropriate for different kinds of agents.[34] To see this, consider an example of one of the associations that RA might claim is an agent of justice, Asian American Lead (AALead). AALead assists poor people who have immigrated to Washington, DC, from Asia. This association, focused on education, helps newly-arrived families interact with schools, ensures they have access to important resources, and creates and runs programs that help the academic performance of immigrant children withstand the challenges of immigration. Their programs include, among other things, summer classes, family support services, and mentoring.[35] Since the association is run by members of the immigrant community, it has access to knowledge of the special circumstances and difficulties facing those it helps, and is able to provide opportunities for those who would have otherwise faced greater hardship. Now think of the kinds of principles of justice appropriate for a social democratic welfare state. Were we to conceive of AALead as an agent of justice, ought it be required to conform to such principles? Such principles would likely rule out ethnic discrimination by its agents of justice (state institutions) which allows factors "arbitrary from a moral point of view" to influence persons' life prospects. But such discrimination is at the core of AALead's mission and its ethnic identity contributes to its ability to gain support and funding from others; were AALead to cease discriminating, it would likely cease to exist. All of this is in addition to the fact that most of us find such discrimination entirely unobjectionable. If the activities of AALead and similar organizations help make society just, and their absence would make society less just, then it would be a mistake to endorse principles of justice that lead to their demise. Of course, this is just one example of how we might allow non-state agents of justice to act in ways we would not allow state agents to. The general point is that in selecting principles of justice, it makes a difference whether responsibility for justice is

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[34] Unless the only correct principles of justice require nothing more than what the least capable possible agent of justice can do, then, since ought implies can, this must be true. Though see works cited at note 19.
[35] For more information, see www.aalead.org.

distributed over multiple and diverse social entities (as it is on most forms of pluralism) instead of one complex entity (as it is according to statism).

   If we do not have an acceptable set of principles of justice that is appropriate for state and non-state agents of justice (as we do not), then our answer to the question of which principles of justice we should accept depends on our answer to the question of who is an agent of justice. Ideal theory is indeterminate about the agency of justice. Ideal theory is thus indeterminate about which principles of justice we should accept. Earlier, I described ideal theory as a method of using simplifying assumptions in order to identify the theory of justice (including the principles of justice) we should aim for. If my argument is correct, ideal theory so construed is self-defeating.

5. Empirically-Grounded Idealization

The assumptions of ideal theory have usually been applied only to parts of society: institutions of the state and person's behavior in regard to such institutions. My argument works by resisting this *uneven idealization*, holding that it is incoherent to assume the best of people when evaluating some kinds of institutions (state institutions) and to fail to do so when evaluating others (non-state institutions).

   Yet one might argue that the case for statism in ideal theory does not rely on uneven idealization. One might admit that while opposing answers to the agency of justice question are both plausible under ideal theory, the plausibility of the pluralist answer depends *more* on idealization than the statist answer. Pluralism, on this view, is simply farther away from reality. What we need, then, is a conception of ideal theory that is able to capture this "distance from reality." For example, we could revise the support assumption to specify that persons will support the institutions of justice but that there is a limit to such support—funding such institutions through the paying of taxes is within that limit, while volunteering at such institutions is beyond that limit. Once we have appropriately specified the idealizing assumptions, ideal theory will no longer be indeterminate between statism and pluralism, and thus not necessarily indeterminate about which principles of justice we should accept. In short, if we idealize evenly, but modestly, we can avoid indeterminacy.

This is a call to revise the assumptions of ideal theory so that they match better with empirical realities of the world. Let's dub this *empirically-grounded idealization*, or EGI. EGI is a difficult project, for it consists of two difficult tasks. The first is determining how close to empirical reality our idealizing assumptions should keep us. After all, one of the aims of ideal theory is to avoid status quo bias. Realizing this, the second, and perhaps more crucial task, is identifying the relevant empirical information.

I have doubts about how well EGI can overcome these difficulties. In ideal theory the idealizing assumptions are set up "in advance" of any particular normative structures (principles of justice, institutions, rights, laws, etc.). We then plug various normative structures into the idealizing assumptions to see how they fare. The empirical information EGI asks us to identify is supposed to inform and revise our idealizing assumptions, so such information must also be obtained in advance. But I do not think there is any way for us to identify this empirical information in advance. This is because the relevant empirical information is not simply how things are now, but how things could be—what is possible. More specifically, we need to know the range of what is possible regarding human behavior, motivation, attitudes, and social organization. Since different normative structures may cause changes to human behavior, motivation, attitudes, and social organization, we cannot tell what is possible simply by observations made under our current (and past) normative structures. So, return to the possible revision of the support assumption mentioned two paragraphs above. What grounds such a revision? Is it that persons living under today's normative structures are unlikely to volunteer to work at institutions of justice? Perhaps, but even if true it is not sufficient to ground the proposed revision. We would need to know that persons living under a wide range of normative structures—not just today's—are unlikely to so volunteer. And we cannot infer that from observations about our current situation, for people may come to behave differently, have different views about what they should do, or find new ways of organizing themselves, after having lived in different circumstances, under different institutions, with different normative structures.

6. Experimentation

The aims of ideal theory are to overcome bias in favor of the status quo and to identify the theory of justice society should strive to achieve. But as I argued, the standard assumptions used by ideal theory interfere in the achievement of the second of these aims. One way of overcoming this problem, EGI, incorporates empirical information into our idealizing assumptions. But this threatens the other aim of ideal theory. The problem with EGI is that if it merely brings in empirical information about our current world, it will bind us too tightly to the status quo. Yet, the needed empirical information—about counterfactual worlds with different normative structures—is not available.

What I would like to propose is a method for achieving the aims of ideal theory that yields determinate answers, recognizes the need for a broad range of empirical information beyond our current state of affairs, and acknowledges that we do not yet have this information. I call this method *normative experimentation*. Normative experimentation is the real-world implementation of normative structures with the aim of gathering empirical information about them. This information includes whether the structures achieve their aims, what persons living in the experiment come to think about these structures while living under them (i.e., endogenous assessments), what those external to the experiment think of these endogenous assessments, and what other relevant effects such structures have (e.g., on overall quality of life). Each normative experiment would take place in its own territory, some sub-national space, with multiple experiments ongoing.

Before I say more about normative experimentation, let me explain why I think it is necessary. After all, one might claim, we don't need to experiment with different theories of justice in order to know whether we should accept them, since we already have at our disposal philosophical arguments, and information and predictions from the social sciences and history. True, we can make use of these forms of knowledge, but there is good reason to think they will not be sufficient.

Suppose we are trying to decide between different theories of justice, each with their own set of basic principles. Looking at the arguments for each theory of justice will not supply us the needed information. One of the pieces of needed information is *what*

society is really like under the theory, and we cannot know what a society would be really like under a certain theory of justice by reading about the theory.[36] In part this is because there are too many contingencies that may not align properly for a theory's success. A theory may propose an institutional structure with certain agencies in place to guarantee proper treatment of persons or certain distributional results. But saying so does not make it so. Such agencies have to be created, which requires political will and individual determination, the presence of which is not assured. The agencies have to be staffed, and success at this may depend on uncertain factors such as population, competition from other employers, the labor supply, demands of unions, and the popularity of the agencies' missions. Once an agency is created and staffed, its effectiveness is neither uniform nor guaranteed, due to the variation among "street-level bureaucrats."[37] Numerous further difficulties block the successful following-through of even agreed-upon programs by staffed agencies.[38] This is just the start of an accounting of the obstacle course that is the road from theory to practice. And even if implementation was less uncertain, we would still not know whether we would find the societal effects of such institutions acceptable, either as members of that society or as external observers of it.

The social sciences may be of some use here, and thought experiments may help us figure out how our normative opinions might change under different arrangements. But I do not think these will be enough. What is really needed is knowledge that is experiential, rather than projected. This is because humans are sometimes quite bad at predicting both what will occur and what we will think about what will occur. Developments in morality, politics, and science provide many cases of this. Compare the predicted and ultimate results of (and the reactions to): the end of slavery in the United States; the introduction of women's suffrage; the invention of in vitro fertilization; the smoking of cigarettes—to name a few examples. In each case, actually living with the

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[36] A similar point is made in Tomasi 2001.

[37] Street-level bureaucrats are "public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work" (Lipsky 1983, 3).

[38] Jeffrey Pressman and Aaron Wildavsky write of implementing policies: "The apparently simple and straightforward is really complex and convoluted. We are initially surprised [that programs fail] because we do not begin to appreciate the number of steps involved, the number of participants whose preferences have to be taken into account, the number of separate decisions that are part of what we think of as a single one. Least of all do we appreciate the geometric growth of interdependencies over time where each negotiation involves a number of participants with decisions to make, whose implications ramify over time" (Pressman and Wildavsky 1984).

phenomena overturned many people's views of what would happen and changed what many people thought about it.[39]

Social phenomena are difficult to understand and predict, and there is a limit to our capacities to imagine changes to the world and what we might think of it. That these are commonplaces does not mean that their significance has been appreciated. Social science is not a crystal ball, nor can it provide us with social qualia; it cannot quite tell us what a Rawlsian society is actually like and what it is like to be a member of it, or a libertarian one, or one in which surfers are entitled to a basic income.[40] It cannot give us an account of what we would think, as members of such societies, about our principles of justice and their achievement. Such an account may only be available by checking actually-existing societies in which various theories are implemented.

Yet, there is no "library of societies" at which we can check out different theories of justice in action. Sure, there is variety in how our world's societies organize themselves, and have done so throughout history, but few, if any, represent the main contenders in contemporary political philosophy. Our reasons for having a proper assessment of theories of justice, then, give us reason to create societies that *do* embody the theories. As John Dewey writes, "opportunity at different times and places must be given for trying different measures so that their effects may be capable of observation and comparison with one another."[41] That is the opportunity normative experimentation provides.

Normative experimentation is a way of retaining the best elements of ideal theory— the diversity and creativity that results from different minds systematically focused on questions of what the perfectly just society is like, in a way unburdened by reality—and combining them with a kind of empirical testing that we lack the resources to conduct in advance. The end result will be judgments about these theories of justice that are better justified, based on experience rather than an unreflective anchoring to the status quo.

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[39] Elijah Millgram makes this point effectively with his examples of how the inventions of cars and clocks have changed what we do and what we value (Millgram 1997, 91ff).
[40] Van Parijs 1995.
[41] Dewey 1994, 257.

7. Worries about Experimentation

While I leave the development of a full-fledged account of normative experimentation to a future work, I will mention some objections to it here and sketch answers to them. In doing so I hope to provide a somewhat fuller picture of the idea.

One objection to normative experimentation is that it is unrealistic. How could we experiment with societies? They are not Petri dishes in a lab. Indeed, there are political, economic, and psychological obstacles to such experimentation. Nonetheless, we do have a model on which to base such experimentation: federalism. As Justice Brandeis wrote: "It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."[42] The idea of states as laboratories does not accurately describe contemporary U.S. society, and to embrace a more experimental federalism would face all sorts of challenges. But these challenges seem no greater than those faced by any normative political theory that sets out an ideal polity that differs from our current one, as most theories do. I know that insofar as normative experimentation is supposed to be an improvement on ideal theory, this may not be a very satisfying answer. However, there is some hope for working out some of the practical problems of experimentation.[43]

A second objection is that, in creating many different kinds of societies, normative experimentation risks treating persons unjustly, especially since in our experiments we will likely more often fail than succeed at achieving acceptably just societies. This is true. The question to ask, then, is whether our current society is just. If we are fairly confident that it is, then the need for experimentation is slight, and there will be few experiments, and they will not deviate wildly from the status quo; so the risk of treating persons unjustly is not great. But if our current society is not just, then the failure to engage in experimentation will lead to persons being treated unjustly—in our society— for the failure to experiment is likely to delay our recognition and achievement of social justice. Additionally, we should not forget that more ordinary modes of theory critique remain available to us. We can check for the internal coherence of theories. We can rule

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[42] Brandeis 1932.

[43] See Virjo 2006 and the entire issue Volume 1, Issue 2 of *Basic Income Studies*, which is devoted to issues about how to best conduct a Basic Income Experiment.

out arrangements previous experiences with which have shown to be morally unacceptable. And we will probably use our current considered judgments to set some limits on the degree of experimentation.[44]

Third, someone might ask why we should give more weight to the opinions of persons living under the theory of justice in question in an experiment, than we do to the opinions we currently have, prior to or outside the experiment. After all, the question we are using normative experimentation to answer is what theory of justice *we* should adopt. Suppose our views about justice might, as a result of living in one of the experiments, come to be different than they are now, and that we are strongly committed to our current views. Doesn't our attachment to our current views give us a reason not to experiment?[45] This is a difficult question. On one side is a position like that of John Stuart Mill, who argued that the better opinion comes from those who are most informed. If most persons who have experience of X and Y consider X better than Y, we should give that opinion more weight than the opinion of those who have only experienced Y and prefer Y over X.[46] On this view, the experiments do not merely *change* one's opinion about conceptions and institutions of justice, if they do; rather, by giving one a broader range of experience on which to judge, they *improve* one's opinion. Prior to the experiments, we should not be so attached to our current views. Still, there is the possibility that some of those inhabiting the experiments will come to view their new arrangements favorably simply as a result of their own (new) status quo biases, and that would not be an

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[44] A related worry is that normative experimentation *uses* people, treating them as mere sources of information about justice, institutions, and intuitions, rather than treating them as autonomous beings with dignity. In response, note that under my conception of experimentation, persons have a choice about which experiments to take part in—after all, if a theory of justice is to gain our allegiance, it must resonate not only with our understanding of justice once we are fully immersed in its resultant culture, but it must be attractive or intriguing in some way for some of us before the experiment gets started. Otherwise the theory would never be a live option for us to even strive towards. Thus, insofar as people get to choose whether they are to live in an experimental setting, or choose which experiments are worth trying, they are treated as beings with their own ends.

[45] This is the position that Amish parents took in the Supreme Court case *Wisconsin v. Yoder* (406 U.S. 205, 1972). They argued that their teenage children should not be compelled to attend school, for doing so would cause them to change what they want for their lives. They likely would transform from persons who preferred a future as a member of the traditional Amish community to persons who preferred to live modern, Western lives. This transformation should be prevented not only for the sake of the children, they argued, but also for the sake of the continued existence of their way of life.

[46] Though there are worries about Mill's deployment of this idea in support of a sophisticated form of hedonism, detached from that setting the idea is quite plausible and is accepted as such in a variety of situations.

improved judgment. I understand the point, but it does not move me to step back from experimentation. It is, however, the reason why the information to be gathered includes, among other things, assessments from within and outside the experiment. The hope is that with discussion and investigation amongst the relevant parties, we may be able to diminish the influence of biases in our views.

Finally, someone might claim that my suggestion of normative experimentation leads to a regress. Normative experimentation is a tool by which we can evaluate moral theories. But, the critique continues, in claiming that such experimentation can manifest itself in something like federalism, and by advocating this federalism, I have turned normative experimentation into its own theory of justice. As a theory of justice, it, too, is subject to evaluation via normative experimentation. Thus, a society that engages in such experimentation becomes one of the experiments to be conducted and evaluated. In other words, we need to experiment in order to see whether we should experiment. It is unclear how far back this regress goes. But it can be forestalled. The key is to realize that normative experimentation, even if it advocates some variant of federalism, is not in itself a theory of justice. It is simply a means by which to improve our views about justice.

To understand normative experimentation as a theory of justice is to think of it, mistakenly, as identical to Robert Nozick's "framework for utopia."[47] Though the ideas share some features, they are importantly different. Nozick's framework for utopia is a society of mini-utopias, populated voluntarily and peacefully coexisting. While Nozick appreciates the experimental advantages of his pluralistic utopia of utopias, he sees the framework, with its population of sub-utopias, as a desirable end-state.[48] In fact, he takes the framework as identical to the minimal state he argues for in other ways,[49] and he claims that anything more extensive than a minimal state will violate people's rights.[50] So, if the minimal state is what social justice consists in, and the minimal state *is* the framework for utopia, then on Nozick's view social justice consists in the framework for utopia. On my view, social justice does *not* consist in normative experimentation. Rather, normative experimentation is a way of figuring out what social justice is.

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[47] Nozick 1974, Chapter 10.
[48] Nozick 316. The experiments are aimed at generating desirable communities, not (necessarily) just societies.
[49] Nozick 333.
[50] Nozick ix.

8. Conclusion

I have argued that plausible answers to the kinds of questions usually answered using the method of ideal theory require certain kinds of empirical information.   I further argued that ideal theory assumes away this empirical information. As a result, ideal theory is self-defeating. But these questions are worth asking, and worth answering in ways that capture some of the virtues of ideal theory, such as its ability to gain critical distance from the status quo. Since the required empirical information concerns the range of what is possible for beings like us in a world like ours, it is not sufficient to merely report on how *we now* happen to be. So what can allow us to both assess answers to fundamental questions in political philosophy in way not overly distorted by shortsightedness or status quo bias, and incorporate the empirical information needed to do so? My answer is normative experimentation, by which we actually implement a variety of normative structures to observe how societies function under them, and how people's behavior, attitudes, and judgments are modified by them. The idea of normative experimentation is, at this stage, admittedly fairly immature and needs much development and refinement. Will it ever work? We won't know until we try.

Bibliography

Anderson, Elizabeth. 1993. *Value in Ethics and Economics.* Cambridge, MA: Harvard University Press.

Brandeis, Louis J. 1932. *New State Ice Co.* v. *Liebmann* (dissenting)*, 285 U.S. 311 (1932).

Buckley, Stephen. 2001. "Volunteerism is Blossoming in Brazil," *Washington Post*. January 9: A1, A18.

Cohen, G. A. 1997. "Where the Action Is: On the Site of Distributive Justice." *Philosophy and Public Affairs* 26(1): 3-30.

Cohen, Joshua. 2001. "Taking People as They Are?" *Philosophy and Public Affairs* 30(4): 363-86.

Dewey, John. 1994. *Ethics,* Part III (excerpts) in *The Moral Writings of John Dewey*, rev.ed., ed. James Gouinlock. Amherst, NY: Prometheus Books.

Goodin, Robert E. 1985. *Protecting the Vulnerable: A Reanalysis of Our Social Responsibilities*. Chicago: University of Chicago Press.

Goodin, Robert E. 1988. *Reasons for Welfare*. Princeton: Princeton University Press.

Hirschman, Albert O. 1970. *Exit, Voice, and Loyalty*. Cambridge, Mass.: Harvard University Press.

Hirst, Paul. 1997. *From Statism to Pluralism*. London: Routlegde.

Kant, Immanuel. 1996. *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, trans., ed. Mary J. Gregor. Cambridge: Cambridge University Press.

Lipsky, Michael. 1983. *Street Level Bureaucracy*. New York: Russell Sage Foundation Publications.

Miller, David. 1999. *Principles of Social Justice.* Cambridge, MA: Harvard University Press.

Millgram, Elijah. 1997. *Practical Induction*. Cambridge, MA: Harvard University Press.

Murphy, Liam. 1998. "Institutions and the Demands of Justice," *Philosophy & Public Affairs* 27(4): 251-91.

Nordlinger, Eric A. 1981. *On the Autonomy of the Democratic State*. Cambridge, MA: Harvard University Press.

Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.

Pettit, Philip. 1997. *Republicanism*. Oxford: Oxford University Press.

Pogge, Thomas. 2000. "On the Site of Distributive Justice: Reflections on Cohen and Murphy." *Philosophy and Public Affairs* 29(2): 137-69.

Pogge, Thomas. 2006. "Moral Priorities for International Human Rights NGOs." In *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, ed. Daniel A. Bell and Jean-Marc Coicaud. Cambridge: Cambridge University Press.

Pressman, Jeffrey, and Aaron Wildavsky. 1984. *Implementation*, 3rd ed. Berkeley: University of California Press.

Rawls, John. 1993. *Political Liberalism*. New York: Columbia University Press.

Rawls, John. 1999. *A Theory of Justice*, rev.ed. Cambridge, MA: Harvard University Press.

Schmidtz, David, and Robert Goodin. 1998. *Social Welfare and Individual Responsibility*. Cambridge: Cambridge University Press.

Tomasi, John. 2001. *Liberalism Beyond Justice*. Princeton: Princeton University Press.

Van Parijs, Philippe. 1995. *Real Freedom for All*. Oxford: Oxford University Press.

Virjo, Ilkka. 2006. "A Piece of the Puzzle: A Comment on the Basic Income Experiment Debate." *Basic Income Studies* 1(2): 1-5.

Williams, Andrew. 1998. "Incentives, Inequality, and Publicity." *Philosophy & Public Affairs* 27(3): 225-247.

Determinacy and Indeterminacy. Statically Determinate Structures. Conditions of equilibrium are sufficient to analyse the structure. Bending moment and shear force is independent of the cross-sectional area of the components and flexural rigidity of the members. No stresses are caused due to temperature change. No stresses are caused due to lack of fit or differential settlement. Statically Indeterminate Structures. Additional compatibility conditions are required. Bending moment and shear force depends upon the cross-sectional area and flexural rigidity of the members. Stresses are caused due