

An Inquiry into the nature of Justice

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Master's Degrees by Examination and Dissertation

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An inquiry into the nature of justice.

Introduction

This paper is concerned with the principles of justice and their dominion. I will argue that justice requires an ethic that is both robustly egalitarian and cosmopolitan. In section 1 I will attempt to demonstrate that rather than constraining calls for equality that liberty, properly understood, motivates it and that autonomy requires the absence of oppressive structures that impugn on an individual's preference formation. I will consider various accounts of the currency of egalitarian justice and what factors an egalitarian thesis should be sensitive to. I will do this by setting out the principles argued for by John Rawls in *A Theory of Justice* and considering some of the objections that have been raised with this account. I do this motivated by the esteem even his critics hold this text and its preeminent position within contemporary Political Philosophy.

In section 2 I will argue that the principles for distributive justice discussed in section 1 apply to international as well as intranational distributions and that the accounts of equality and liberty preferred in section 1 are incompatible with undue preference being awarded to some on account of their nationality. I will argue that a failure to provide adequate consideration to non-citizens and non-residents ignores how the motivations for obligations to citizens also apply to those groups. I will argue that the descriptive claims of what states do are should not be conflated with the normative claims of what states should do. I will also look at specific issues that I hold motivate preference for a cosmopolitan ethic.

Clarifications Assumptions Omissions

Prior to beginning the main thesis, I will use the rest of this introduction to provide some of the theoretical framework surrounding the concepts discussed in this paper. Firstly, in the realm of moral philosophy there is a clear distinction between utilitarian and deontological theories. This distinction can be understood by the prioritisation of elements of these theories. Consequentialism judges the moral standing of acts based on the consequences that result from it. In this sense the *right* action is the one that promotes the *good*. This is in contrast to deontological theories that prioritise the *right* action as defined by the duties and responsibilities that people have. In this paper then any references to good or goods should be understood as things that people value unless specified. The other major distinction follows from this, the Utilitarian attempts to reduce the good to a single fundamental metric while the deontologist is much more accepting of value pluralism.

I also assume that there is a plausible account of free will that provides scope for moral agents to act autonomously. I will not spend time of the metaphysics of free will or determinism though both are relevant to the topic of moral responsibility.

I will also spend more time comparing egalitarian accounts than I will the arguments against egalitarianism, I intend to demonstrate that inadequacies in certain egalitarian thesis result in unjust distributions and by extension those theories that are inequalitarian must also result in unjust distributions.

It may seem remiss to not consider arguments in favour of welfare inequality specifically. However, Cohen's Luck egalitarianism leans hard on the tradition of welfare equality and there is substantive arguments against traditional welfarism that I hold to be successful.

Section 1 Equality

T. M. Scanlon in *Why Does Inequality Matter*ⁱ presents two ways in which equality can be understood. In a broader sense equality counts as an instrumental good, it is of concern because the implications or consequences of inequality leave some people in a worse situation relative to others, for instance where inequality in resources leaves some with worse life outcomes than others with regard to some good such as education or healthcare. In the narrower sense it is the inequality itself rather than the consequences of such that is considered unjust, here equality is a fundamental good.

1.1 Liberty and Autonomy

Liberty can be held both to motivate or constrain demands for equality, as with many philosophical topics the meaning of these values differs with the account favoured and it is important to detail the meanings philosophers has ascribed to these values in order to compare them. The putative tension between these values does mean that each account of either liberty or equality must at least offer an account of the other consistent with the view advocated for. One can as Nozick does offer an account of liberty that permits only the equality of libertarian rights or offer an account of equality that provides constraints on the liberty permitted. At a minimum the strong egalitarian must demonstrate why we do not have the freedom to benefit from unequal distributions.

Isiah Berlin's in *Two Concepts of Liberty* distinguishes negative liberty, often presented as freedom from, from positive liberty often presented as freedom to. For Berlin the correct account of liberty is negative, it is freedom from coercion;

Coercion implies the deliberate interference of other human beings within the area in which I could otherwise act. You lack political liberty or freedom only if you are prevented from attaining a goal by human beings. Mere incapacity to attain a goal is not lack of political freedom.ⁱⁱ

Being free to act in a particular way on this account does not entail one is able to act in a particular way, it is merely freedom from others preventing you to act in such. Physical and mental limitations do not prevent you from having freedom in a morally relevant way nor does not having the economic resources, political freedom is not the same as economic freedom and is thus not subject to political but economic explanation.ⁱⁱⁱ

However, economic distributions are subject to decisions made political institutions, the attempt to strictly delineate economic and political freedom impoverishes the account of freedom, the person who is starving is not free in an important sense if they lack the economic resources to satisfy that hunger. This is thus a thin account of liberty and brings into question whether there is in fact a tension between the concepts of liberty and equality. If, as some such as Nozick hold, moves towards economic equality impugn upon liberty by redistributing

wealth from the rich to the poor encroaching upon an individual's freedom to spend their income and wealth as they see fit, this becomes harder to defend on an account of liberty that talks only of political rather than economic rights. While it may be true on Berlin's account that economic redistribution may not be motivated by liberty it becomes harder to defend the view that it is motivated against.

Berlin goes on then to define positive liberty in the same manner, providing an account of positive liberty as participation in political life Philip Pettit provides a description of Berlin's view as;

the liberty of belonging to a democratically self-governing community—is the most prominent variety of Berlin's positive conception. Modern liberty is being left to the rule of your own private will, ancient liberty is sharing in the rule of a public, democratically determined will. The modern ideal is characteristically liberal, the ancient characteristically populist.^{iv}

Viewed in this way positive accounts of liberty are incompatible with deontological liberalism. In Rawls own account of liberty, he includes the political liberties such as political representation. But my freedom to vote can surely be understood on both positive and negative accounts. I may be free in the negative sense if there is no one preventing me from voting, but I am also free in the positive sense if there exists a framework where my vote is counted. Being free to vote requires some form of political democracy. Rawls prefers a negative account of liberty but is clear his preference for liberal democracies assume some liberties that can at least be understood in positive terms.

However, if the deontological liberal is correct then it would seem acceptance of value pluralism motivates acceptance of a negative principle of liberty, one under which people are free to pursue their account of a good life. While positive accounts should be rejected as they require an understanding of the good inconsistent with deontological explanation. As Plant holds;

On the positive view of freedom, it seems as though we have to have some kind of agreed set of moral goals such that virtue is acting in the furtherance of such goals, whereas it might be argued that we now live in much more diverse and pluralistic moral communities and we cannot expect agreement on what the ends of human life actually are.^v

I will believe that this argument is mistaken because a pluralist accounts of the good life still require deontological constraints subject to equal negative freedoms being available to all, further liberal democracies are founded on the principle of collective agreement on the bounds of these by way of democratic government even if this is often lacking in practice. However, if we temporarily accept these distinctions and implications the account of negative liberty offered by Berlin assumes the value of autonomy, if an individual is to form preferences and set goals in accordance with their own will then the absence of coercive restraints is a necessary condition for the project to get off the ground. A person must be able to reflect on and revise their choices if these goals are to reflect their authentic preferences. As Christman argues

In all cases, however, the view of autonomy being presupposed or promoted includes the capacity to rationally scrutinize one's attachments, values, indeed all aspects of one's identity, from a perspective detached from each of those aspects themselves.^{vi}

If autonomy comes to “bear on the formation of preferences not on their structure”^{vii} then a preference set must be subject to reflective revision. An individual's preferences subject to internalised coercive restraint is as relevant to the exercise of liberty as external constraints.

Gerald McCallum challenges the view that liberty can only be understood in positive or negative terms, this dichotomy results in both accounts missing key elements of what it is to be free, rather than a dyadic relationship, freedom to X or freedom from X he posits a triadic relationship.

Whenever the freedom of some agent or agents is in question it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something. Taking the format “x is not free from y to do (not do, become, not become) z” X ranges over agents y ranges over such “preventing conditions” as constraints, restrictions, interferences and barriers and z ranges over actions or conditions of character or circumstance.^{viii}

While both negative and positive accounts of liberty provide useful insights into freedom as it is commonly understood both omit elements specific to the other, this is what McCallum is trying to capture here, just as external coercive pressures constrain liberty so do internalised coercive pressures provide constraints according to McCallum. Where the constraints are self-imposed due to ones internalized subjugation then some minimal account of equality is necessary in order to remove those constraints.

1.2 Rawls

The Theory of justice is a response to the dominant utilitarian political philosophy of the time, one that Rawls rejects as a deontological liberal who situates his work in a social contract tradition that includes Locke, Rousseau and Kant.^{ix} Rawls has two primary objections to the utilitarian thesis, in the first instance he rejects the utilitarian view that various goods can be reduced to a fundamental good, a core component of deontological liberalism is that it is pluralistic with regards to the good and while this opens issues with indexing and addressing conflict between different values it avoids the reductive nature of utilitarianism. The second objection is that whether taken as an average or a total Utilitarianism is unconcerned with the distribution of the good.

Rawls first outlines the conditions that motivate a theory of justice, what concerns give rise the requirements of justice over which such principles are intended to adjudicate. These concerns are objective in the sense that there are different people coexisting in a geographical political jurisdiction where resource scarcity prevents everyone from satisfying their desires. The subjective concerns are fundamental to deontological liberalism, in that the people living in such a territory have different political, social and religious commitments, which allows the satisfaction of these commitments consistent with the equal rights of others. He

acknowledges people “suffer from various shortcomings of knowledge, thought and judgement”^x, and these shortcomings require the adoption of general principles.

He develops over the course of the text two principles:

FIRST PRINCIPLE. Each person to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

SECOND PRINCIPLE. Social and economic inequalities are to be arranged so that they are both. (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.^{xi}

Rawls grants lexical priority to the first of these principles, the second principle is dependent upon the satisfaction of the first and within the second principle clause (b) equality of opportunity is given priority over clause (a) known as the difference principle. The first principle ensures that individuals can determine their own conception of the good life consistent with a similar right for others, within the second clause B is intended to secure positions of social esteem on merit while clause A is intended to ensure that inequalities are permitted only if they benefit the worst off in society. While positions must be open to people under fair equality of opportunity these positions do not imply unequal distributions based on social position unless it provides advantage for the worst off. At the centre of Rawls beliefs then is a value pluralism following that societal positions be open to all and that they are rewarded consistent with the interests of the least advantaged.

Rawls justification for the adoption of these principles’ entails presenting rationally self-interested people situated in the original position with a choice between various principles of justice. The participants are behind a veil of ignorance that denies them knowledge of their own situation, characteristics such as race, gender social and economic commitments are unknown preventing them from selecting an account of justice that suits their particular situation. It is according to Rawls “a purely hypothetical situation”^{xii} that allows them to choose based on their own rational self-interest. Rawls concept of justice is of justice as fairness and fair principles for the basic structure of society are arrived at only if the parties would agree to them ignorant of their own situation. Rawls advocates for a thick veil of ignorance. This is consistent with the tradition he traces to Kant.

Kant held, I believe, that a person is acting autonomously when the principles of his action are chosen by him as the most adequate possible expression of his nature as a free and rational human being. The principles he acts upon are not adopted because of his societal position or natural endowments or in view of the particular kind of society in which he lives or the specific things that he happens to want. To act on such principles is to act heteronomously. Now the veil of ignorance deprives the persons in the original position of the knowledge that would enable them to choose heteronomous principles.^{xiii}

The criticisms I have selected generally posit that Rawls egalitarianism doesn’t do enough, I am less concerned here with the arguments he goes too far, attacks on egalitarianism are not

without merit but I take the most important criticism from Nozick to be refuted by the arguments against Rawls own position. If I can argue successfully that Rawls does not go far enough I will consider that a successful rejection of views that Rawls does too much. However, in order to not summarily dismiss the view I will outline it briefly and present the arguments from G. A. Cohen on how it can be rejected.

Nozick agrees with Rawls in certain key respects, that autonomy entails a priority of the right over the good and that liberty has lexical priority in the pantheon of rights, his disagreement is that these conclusions do not permit the constraints on liberty as Rawls believes in order to provide for increases in equality of opportunity or condition.^{xiv} Nozick also criticises Rawls insistence that the difference principle is only applicable on a macro level, it concerns the basic structure of society and so no micro examples may be used in counter-argument.^{xv} Can a society be just at a macro level if none of its micro constitutive parts are?^{xvi}

Nozick leverages a Lockean account of rights to argue that people have the right to themselves and their labour.^{xvii} In developing a theory of Self-Ownership which holds that voluntary exchange of the kind that involve parties exchanging that which they have the right to then it follows that any resultant inequality is just. Following from this if the state then tries to redistribute a just distribution the resultant distribution is unjust. If my property is an extension of my labour, then taxing that is to effectively enslave that part of my labour. Further to this if all transactions are to be voluntary then it is not the state's business who I transact with meaning that laws against discrimination are unjust if they force me to transact with groups that I do not wish to transact with. This leads to the counter-intuitive conclusion that a society that permits discrimination on grounds such as race, gender, sexual orientation, gender identity is more just than one that doesn't, it should be for the market to decide whether such discrimination is wrong, and I should not be subject to state censure.

G. A. Cohen rejects this view and demonstrates in Self-Ownership Freedom and Equality that the view one has no autonomy if self-ownership is in anyway complete, is "preposterous"^{xviii} Further, he argues that being free from coercive constraints is not synonymous with having so much freedom any more is inconceivable. For Cohen, and I believe this to be correct, autonomy is a matter of scale rather than a binary yes no. Cohen's move is not to try and refute the concept but reject it by showing that the partial slavery argument is wrong and so the rest of Nozick's thesis is unmotivated.

1.3 Equality of what

This question was presented by Amartya Sen in his Tanner Lectures of 1973^{xix} and every egalitarian thesis must have some answer as to what good or goods it considers the currency of justice.

Rawls' egalitarianism extends to what he calls primary social goods, these include the basic rights and liberties individuals require to pursue their own goals in as much as that pursuance does not impede the similar rights of others, income and wealth, access to a range of occupations and freedom of movement along with the opportunity to achieve positions of social responsibility and status. The list of primary goods is thin in that it incorporates;

“minimal and widely shared assumptions about the kinds of things likely to be useful to all particular conceptions of the good.... (that) can provide no basis for judging or choosing between various particular values and ends.... The account of primary goods generates the minimal motivations necessary to get a problem of rational choice going.”^{xx}

Rawls considered a Pareto distribution of (10:6) is better than a distribution of (5:5) because everyone has a larger amount of resources in the first distribution than in the second even though there was no inequality of distribution in the second. This is consistent with the difference principle. If we consider the good being distributed wealth and income, allowing *ceteris paribus*, the first distribution is better. An objection to the first must consider equality as a fundamental rather than instrumental good. However, if we allow deviations from equality in income and wealth if they benefit the worst off then we may find that inequality manifests across other social goods. If a theory permits significant wealth and income inequality how can we maintain an equality of opportunity that is to some extent at least contingent on access to resources. Wealth and income inequality manifest better health and educational outcomes which in turn can provide some with access to better social positions even those decided on merit depending on the metric used. If we then take two distributions (10:6) (6:4) or (5:5) (5:5) where the first distribution is the same as the example above and the second are opportunities, we have an indexing problem. In the first pair the increased economic share for the second group results in a reduction in the distribution of opportunities with little obvious way to reconcile them. Rawls theory of justice applies to the basic structure of society but if the principles governing such a society permit qualified inequality it becomes harder to ensure that those principles are maintained. How do we ensure that unequal distributions don't result in unequal opportunities?

This gets at the heart of the criticism of Rawlsian equality presented by G. A. Cohen who rejects the view that the difference principle successfully permits just inequalities. He argues against the way in which Rawls employs the Pareto principle, according to Rawls a distribution of (10:5) is not better than a distribution of (8:5) as the worst off do no better under the first distribution, however according to a canonical application of Pareto the first is unambiguously better. A superior interpretation then would hold that distributions need only avoid making the worst off worse off. Cohen then argues that while a distribution of (10:6) is better than (5:5) according to the difference principle it does not follow that it is fair and can be considered a component of a Theory of Justice that presents Justice as Fairness.^{xxi} It is also arguably incorrect if equality is one of the fundamental goods and the increased distribution fails to compensate for the creation of the unequal distributions. For Cohen it is not enough to state that inequality that improves the position of the worst off is justified, it may be better than inequality that doesn't prioritise the condition of the worst off but that doesn't mean it constitutes Justice.^{xxii}

Critics of Rawls view may allege either that this account of what it is that needs to be equal is too thin or too thick and may frame their dispute in either deontological or consequentialist terms. From the available options I will consider four in this section, these are the Luck Egalitarianism of G.A. Cohen, the Capabilities approach preferred by Amartya Sen and Martha Nussbaum, the resource egalitarianism of Dworkin and the Principle of Equal Positive Freedom of Carol Gould.

1.3.1 Capabilities

Amartya Sen considers the focus on welfare to be misplaced and instead suggests that we focus on capability deprivation. Poverty is just one way in which capability deprivation manifests in unequal distributions and while resource and welfare distributive models can mitigate the impact of capability deprivation it can leave those deprivations intact. Consider that a person who is illiterate is restricted in the opportunities available to them which leaves them impoverished. Addressing the poverty but failing to address the illiteracy leaves the cause of that poverty intact. For Sen development is about;

The relation between incomes and achievements, between commodities and capabilities, between our economic wealth and our ability to live as we would like.^{xxiii}

The capability approach is not strictly speaking a political theory, it started as an evaluative mechanism within economics, unsurprising given Sen is a Nobel economist, that allowed countries to look beyond traditional measures such as GDP to more adequately define the capabilities rankings in “the global development marketplace”.^{xxiv}

Wealth for Sen is an instrumental good, its value is derived from the opportunities it affords us to live the life that we value most. Unfreedom for Sen is a feature of both the processes and opportunities that allow for capability development.^{xxv} This can be seen as better suited to a triadic account of liberty that allows freedom to and freedom from to be considered. For Sen then the argument about income deprivation is a starting point for an inquiry into poverty.^{xxvi} He then cites Rawls analysis of primary goods as a framework we can understand as being required by everyone to “promote his or her ends”.^{xxvii} However primary goods of themselves are not sufficient to address the differences in the relation between income and resources and wellbeing and freedom. In order to do this, we have to focus on the “*actual living* that people manage to achieve”.^{xxviii} For Sen this entails an economic as well as philosophical inquiry, indeed “the ability to appear in public without shame”^{xxix} is attributed to Adam Smith with an understanding of how some capabilities are regionally contingent on local societal pressures. Thus the relevant metrics extend beyond welfare, utilities or primary social goods but are the substantive freedoms, read capabilities, required to pursue ones account of the good life.^{xxx} An account must consider not only the allocation of primary goods but also the personal characteristics that “govern the conversion of primary goods into the person’s ability to promote her ends.”^{xxxi} Sen also argues against the utilitarian who is guilty of reducing the things people value to a single metric.

To insist on the mechanical comfort of having just one homogenous “good thing” would be to deny our humanity as reasoning creatures.^{xxxii}

While I disagree that any attempt to reduce value to a single metric requires a denial of our humanity as reasoning creatures as those who’ve attempted to do so have provided reasoning for doing so I do accept Sen’s claim that when actually evaluating the advantages people hold in regard to each other there are a heterogeneity in factors that are assessed. The question is whether this eliminates the need or the desire for a global welfare index or some other such mechanism by which countries can be ranked. Sen supports the idea of

capability rankings but without reducing these capabilities to a single metric it presents challenges without a definitive mechanism to rank capabilities. Again we are left with either some reductive metric or an indexing problem.

Nussbaum like Sen considers capabilities in the plural because the “most important elements of people’s life are plural and qualitatively distinct”. Nussbaum confirms that she considers comparisons across aspects, such as individual autonomy, bodily integrity, health and education incomparable by means of reduction to a single metric.^{xxxiii} For Nussbaum the relevant question is, in a given society “what is each person able to do and to be”^{xxxiv} This is consistent with Kant’s formulation of the Categorical Imperative that each person should be considered as an end never merely as a means. A functioning is an endpoint to a capability, it is the product of a choice that a capability gives rise to, with freedom again having intrinsic value.

“the political goal for all human beings in a nation ought to be the same: all should get beyond a certain level of threshold of combined capability, in the sense not of coerced functioning but of substantial freedom to choose and act”^{xxxv}

Nussbaum deviates from Sen in some important respects, she adds such concepts to the process as political liberalism which mitigates the requirement she offer a comprehensive theory of value, she gives human dignity a central place which Sen references but does not and a threshold below which certain capabilities must not fall. For Nussbaum combined capabilities are defined as internal capabilities plus the social/political/economic conditions in which functioning can actually be chosen^{xxxvi} The addition of political liberalism is derived from the acceptance of a plurality of secular and political goals and the focus on freedom deliberately precludes paternalistic intervention from government.^{xxxvii}

The capabilities approach is not an egalitarian thesis in the strict sense that it requires some good or goods being redistributed to the point where any further redistribution would not improve the basis of equality between persons. There is within Nussbaum’s account a definite threshold and on this basis, we can consider the capabilities approach as sufficientarian. Everyone is entitled to enough capabilities to provide sufficient freedom of choice around a range of things that they value. In both Sen and Nussbaum accounts the focus is on freedom not equality but that these freedoms are substantive only if they allow real choice. Nussbaum claims that while Sen does consider some capabilities such as health and education his consideration of capabilities as zones of freedom runs the risk of establishing freedom as the all-purpose social good.^{xxxviii} Nussbaum does however agree that Sen clearly has a notion of justice within his account but develops an account around the ten central capabilities as a basis for fundamental political and constitutional entitlements. Nussbaum is also sensitive to the fact that some freedoms place constraints on others, a freedom to live free of unfair discrimination negates someone’s freedom to unfairly discriminate. Not all freedoms can be claimed to constitute goods and it is necessary to identify those that are from those that aren’t. A conception of minimal justice provides the opportunity to lead a live of dignity and the capabilities that should be part of any constitutional and political framework should be those that are necessary for such a life.

1.3.2 Resources

Ronald Dworkin goes to some length in *What is Equality*^{xxxix} to outline the problems with welfarist accounts, in order to do this, he provides a definition of what the character of such a distributional scheme of welfare should be;

“... holds that a distributional scheme treats people as equals when it distributes or transfers resources among them until no further transfer would leave them more equal in welfare.”^{xi}

For Dworkin there are two classes of welfare egalitarian thesis, those that use success as the measure of welfare and those that concern themselves with mental states. One of the advantages of using welfare as the metric is that it is fundamental rather than instrumental if equality of welfare can be achieved it would truly be that all people are equal in a fundamental way. The problems with this view are that first we have to break down what measures of success and conscious states should count. Dworkin outlines three, political, impersonal and personal success. For success to count all three measures it can be considered unrestricted success. He first highlights the problem of including political success within the realm of welfare. If a person has deep ideological commitments to inequality should they be compensated for living in a society that does not respect that view. If not, then political success must not be counted. He uses an example where two characters of different castes believe that on account of their caste that they should have different distributions if welfare is understood on an unrestricted success account then a distributional recommendation would be forthcoming that would not be agreeable under any other account of equality.^{xii} It can be argued that the autonomy of the lower caste person in this instance is compromised, that they have internalised their disadvantaged position in an arbitrary hierarchical scheme and as such this has come to bear on the formation of their preferences. If we accept that a theory of rationality can or should protect against such internalised disadvantage, then this guards against such challenges to unrestricted success welfarism but Dworkin isn't finished with his critique yet.

Similarly, if they feel strongly about things that they will never experience where protecting such would adversely impact the lived experience of others should they be compensated? If not, then impersonal success must also be excluded.

The claims against welfarism explored by Dworkin lead to a conclusion in favour of resources rather than welfare as the appropriate metric of egalitarian justice. He first limits resources to the ones privately owned by individuals.^{xiii} While Dworkin allows that the markets that have been given rise to by the systems of economics favoured have resulted in significant equality he claims that the market is still the preferred mechanism for the transfer of goods both in a practical and theoretical sense. If one is to allow for individuals to pursue their conception of the good there must be some mechanism by which conceptions of the good and the things people give value are to be transferred between people and for Dworkin this is the market.^{xiiii} He uses the example of an auction to demonstrate how the principle is resilient to charges of envy or arbitrariness. Again we have a presumption that involves reasonable scarcity but in leveraging a market to determine the distribution of goods it follows from the choices the

individual makes relative to others similarly situated, resources equality requires that individuals enter into the auction on equal terms.

That people value different things is a core component of liberalism and central to that view is a market by which these things can be transferred. Luck may play a part in the transfer of goods depending on whether the popularity of any goods resulted in heightened value where they are scarce or reduced in the case of economies of scale. Expensive tastes then are not a matter of luck that requires compensation as in the conception of justice offered by Cohen. For Dworkin a significant advantage of resource egalitarianism over welfare egalitarianism is thus;

Under equality of resources, however, people decide what sorts of lives to pursue against a background of information about the actual cost their choices impose on other people and hence on the total stock of resources that may fairly be used by them.^{xliv}

Dworkin anticipates the challenge of Cohen when he declares that;

Anyone who insists that equality is violated by any particular profile of initial tastes, therefore, must reject equality of resources, and fall back on equality of welfare.^{xlv}

Dworkin does allow that there are challenges to his view of egalitarian justice by those who consider an auction of property misguided, property itself has value assigned by a market dependent upon those that value it, there is no necessity for the property itself to have any intrinsic value. Property values change with changes in tastes and technological advancements where particular resources fall in and out of favour. Further to this property valuations changing may render previous egalitarian distributions unequal and unequal property relations can manifest once we allow such transfers of property within family or other social groups. If the starting point is to provide for a distribution that no one has cause to envy and these distributions change over time then surely if some industrious person after the initial auction endeavours to provide a surplus to trade with others would give rise to legitimate envy? Dworkin answers this question by refusing to consider the distribution at a single point in time but over the lifetime of the population. If people would not have chosen the endeavour and so did not envy the efforts of the person who produces the surplus then any envy of the surplus is not subject to compensatory distribution.^{xlvi} However this seems unsatisfactory, in the event that the surplus is transferred to those with whom the producer has familial ties is the envy rendered legitimate? How do we distinguish the production that was due to luck and not endeavour.

However Dworkin understands the objections to resource distribution within a complex economy but the role of the auction can still be leveraged within a complex economy on three accounts, first it can be used to check the coherence of a theory of the distribution of resources, second it can be used to evaluate actually existing social institutions and distributions and determine the extent to which they fall within the range of acceptable

outcomes from such an auction and following on from that it can be used thirdly to design the very institutions that determine the distribution of resources in complex economies.^{xlvii} It is at this point that, like Cohen, Dworkin considers the impact of luck on the distribution of resources finding that brute luck that leaves some worse off than others should be compensated but that luck resulting from bad choices should not. Again however we are met with addressing the challenge of how option luck manifesting in worse life outcomes impacts those innocent of taking the gamble, friends family and those with obligations to the gambler will also be adversely impacted. However as Dworkin points out if we consider two groups of people with equal starting points, gamblers and non-gamblers, if the non-gamblers prefer a life of security and choose not to gamble then the gamblers, assuming a zero sum game, redistribute between themselves, if we compensate the winners it is from the losers and deprive both winners and losers of the life that they prefer, the gamble is effectively eliminated by post hoc redistribution.^{xlviii}

1.3.3 Luck

Iwao Hirose, defines Luck Egalitarianism as the thesis where:

Inequality is bad or unjust if it reflects the differential effect of brute luck. Inequality is not bad or unjust if it reflects the differential effect of option luck.^{xlix}

Thus, a distributional scheme must be insensitive to brute luck but sensitive to option luck where option luck is a result of the choices made by individuals and brute luck is luck over which the individual has no control. This captures an important consideration, what inequalities should people be compensated against. If we understand a disability at birth is a result of brute luck we can compensate the individual for it within the scope of the principle but if a gambler takes risks that cause him serious losses, even when those losses are unfortunate and the gamble the result of good reasoning and judgement this is option luck and we can consider no redistributive mechanism of compensation appropriate.

For Cohen equality any deviation from equality must not be dependent on brute luck but the distribution of whatever good it is to be distributed must be sensitive to the choices made by the agent, for Cohen his view is that “none should fare worse than others through no fault of their own”.^l

G. A. Cohen then considers the egalitarian thesis to be one that eliminates both brute luck and exploitation from the distributive scheme. His focus on “weak equalisandum claims”^{li} in that he compares the various metrics or currencies of justice without referral to competing values and as such the claims are weak in that they are subject to correction in deference to the demands of competing values. In assessing the currency of justice Cohen seeks to demonstrate inconsistencies within Rawls view that successfully motivates against equality of welfare but also motivates against the Rawlsian account of primary social goods. Consider Rawls argument against equality of welfare on the grounds that it would compensate those who have cultivated expensive tastes. To compensate them would ignore the role they played within the development of their own tastes and preferences. How then to reconcile this with Rawls own arguments on desert. Rawls argues against desert on the basis that they reflect

the persons individual skills and talents which may as well be acquired through factors outside of their control and thus not subject to reward. It seems then when a person develops an ability that is meritorious it should not be rewarded because it relies on talents outside their influence but when a person develops tastes that are expensive they should not be compensated as it is within their influence to develop other preferences. Cohen accepts that this relies upon an interpretation of influence that is subject to challenge, but his interpretation exposes a problem at the centre of Rawls project.^{lii}

For Cohen it is not welfare but the opportunity for welfare that is correct understanding of the welfare egalitarians demands of justice. Cohen further develops the argument for equal access to advantage in order to address some of the considerations that Dworkin and Sen have correctly identified welfare egalitarianism as being insensitive to. His view then leads to a two-stage process where any lack of welfare is considered as a possible case for compensation which is then decided by whether the deficit of welfare is a result of the person's choice. Inequalities of wealth for instance should only result in compensation when the inequality is derived from luck not choice and luck include such things as inherent advantage and capacity.

G. A. Cohen is particularly indebted to Sen's work on capabilities but considers that Sen misses important implications of the view and in an important sense is too narrow. He argues that in between primary goods and welfare there is a process he labels midfare, hence the causal chain goes Primary Goods – Midfare – Welfare/Utility. Capabilities are situated within midfare but do not exhaust it. The point Cohen makes is that;

What goods do to people is identical neither with what people are able to do with them nor with what they actually do with them.^{liii}

Nor can it be properly explained as some combination of the above. In the example of food where food is the primary good and nourished is the welfare outcome the midfare is that food enables someone to be nourished. He highlights the distinction between midfare and capability in the example of a child, food is still the primary good, nourishment is still the utility, but the child derives the same potential for nourishment even without the capability of feeding themselves. Thus, we cannot consider midfare and capability as equivalent. Egalitarian policy may consider what a person can achieve without reference to her actual state and there is good reason not to reduce that evaluation to stocks of resources and utility level.^{liiv} While it is clear from Sen's analysis that the potential for functionings is important the focus on capabilities services those functionings rather than as a good of itself, capabilities in this sense are instrumental to functionings where On Cohen's analysis there is good within midfare that is distinct from the functioning it entails. Food security is of psychological benefit distinct from the functionings nourishment provides.

1.3.4 Equal Positive Freedom

Carol Gould also references the work of Nussbaum and Sen in development of capabilities but prefers capacities including the capacity of "self-transformation" over time.^{liiv} Gould rejects the premise that liberty is best understood on negative terms and details how an

egalitarian theory can “derive a powerful emphasis on the availability set of material and social conditions in addition to the absence of some constraining conditions.”^{lvi} These conditions, material, social and preventing can all be captured in a theory of agency and equality encapsulated in both basic and non-basic human rights. Moral agents have “mutually valid claims on the conditions of agency”.^{lvii} Presenting the argument for Equal Positive Freedom in the language of human rights also provides each person with claims against states and social and political institutions, they can be delivered locally in terms consistent with different cultural traditions while also extending into those personal spaces where, for women especially, agency is constrained within relationships that limit freedoms.^{lviii} Here basic rights such as, to health, basic subsistence and security would be subject to less regional variation. Gould considers both the international application of the difference principle as advocated for by Beitz, and Luck Egalitarianism, subject to an over demandingness distribution as well as her own principle but claims that equal positive freedom has the benefit of providing a structure by which competing claims can be ranked. It is an ideal theory that extends into non-ideal territory by focusing first on the basic human rights then providing a framework through the non-basic human rights to move to the “more maximalist requirements of strongly egalitarian principles”.^{lix} Gould’s concept of Equal Positive Freedom acknowledges all conceptions of positive freedom discussed, it is participatory, the right to participate in democratic institutions comes with an obligation to participate in those institutions given that personhood is at least in part understood as inter-relational and participation shows respect for the collective needs of any given political society, it is also clear that Gould considers autonomy integral to the development of capacities and that for freedom to obtain an agent must also be sufficiently resourced to pursue them. In Gould’s account freedom while not synonymous with equality is not in conflict with it.

1.4 Concluding remarks on Equality

Rawls Theory of Justice has a putative presumption in favour of equality in that any deviation can only be justified on the grounds that it must be to the benefit of the least advantaged. Rawls Theory of Justice is intended to address the basic structure of society but given we live in a world with significant inequality then the distributive principle licences inequality if those benefitting from it can claim that it advantages the worst off. Indeed, this is what happens when it is argued that tax cuts for the wealthy increase investment irrespective of whether increased investment actually follows a tax cut or whether inequality can be shown to increase after such cuts.

The liberal must take account of the ability of the individual to form preferences and goals free from coercive constraints. For the formation of preferences to be free from coercion a person must be able to reflect on their choices and so choose otherwise if they are so inclined. A lack of liberty or a lack of equality can act as constraints on the formation of these preferences and so in addition to a theory of liberty and equality we also need a theory of autonomy. Even if we were to allow at this point that Rawls is correct, that inequality can be justified if the worst off do better under a system that allows unequal distributions and accept that positions should be determined under equal opportunity then we still have a challenge

when we consider how the inequality impacts on the formation of preferences. If a person internalises the relevant inequality, then the formation of preferences is subject to constraints that adversely impacts autonomy. In addition to unequal conditions having a material effect on one's opportunities is a person that accepts such inequality really free? My answer to this question is no, internalised subjugation is a harmful constraint on the formation of preference set and as such a negative account of liberty that fails to acknowledge these constraints must be rejected.

Rawls theory of justice is an ideal theory where non-ideal theory can be understood as one that is economically socially and politically constrained. It is theory contingent on the existing social order, but it also presupposes an ideal theory, one that is not subject to such constraints but one that provides an endpoint for non-ideal theory to aim. In this sense an ideal theory of justice can pose what does justice look like? To varying degrees this is the project, to varying degrees that the philosophers discussed so far have attempted to answer. Each has successfully identified aspects of life that people have cause to value. In this sense developing capabilities, redistributing resources, provisioning primary social goods and improving welfare can each provide improvements in the conditions of those currently inadequately provisioned but in terms of ideal theory each has serious challenges to address before they can be considered the correct ideal theory.

Nussbaum claims that purely welfarist accounts are unable to address the question of offensive tastes without the introduction of an additional principle that is no longer welfarist. Harsanyi acknowledges this in claiming that the decision to leave such tastes out of the account is motivated by an attempt to reconcile a utilitarian account of welfare as preferences with a Kantian principle of treating each individual as an end.^{lx} While in this case the exclusion of offensive tastes acknowledges the role played by non-utilitarian principles Jean Hampton adds a corrective that deformed preferences can be excluded when the preference arises from experience of asymmetrical or abusive relationships. In this case non-intimidation and equal respect play the role of corrective again acknowledging that these are not strictly preference-based accounts.^{lxi}

It is also true that while we can understand the range of goods people value in the plural it is not true that we can consider them entirely discretely, political philosophers are fully cognisant of the issues of power related to wealth, how significant inequality provides for significant difference in political authority and influence. If liberalism is to maintain the view that democratic institutions of a sort are central to the liberal project then it will not do to deny the anti-democratic nature of vast inequality.

Section 2 Global or Local Justice

It is clear from Rawls Theory of Justice that the domain of his theory of justice is nation states. When he attempts to extend his theory to a global domain the difference principle and principle of equal opportunity are replaced under a new original position by a Law of Peoples^{lxii} these revised principles "indicate(s) the role of human rights as part of a reasonable

law of peoples.”^{lxiii} Any acknowledgement of human rights in a positive formulation as the right to food, clothing and shelter creates an obligation on others to ensure those rights are satisfied. That there are different principles in play globally and locally have led certain philosophers, Brook cites both Pogge and Beitz, criticising the lack of consistency. Better to extend the principles argued for in a Theory of Justice to the global community especially of the arguments against extending the theory expose difficulties with the principle applied locally, Peter Singer for instance asks if the motivation to redistribute wealth globally is lacking the same arguments can be leveraged against his principles applied locally.^{lxiv}

Attfield claims that global citizenry is compatible with membership of an individual state and as that we consider that citizenship can be considered at a number of levels; to one’s city state and community^{lxv}, thus considering a humanity as conferring global citizenry does not require that other allegiances are ignored. Only that each relationship between the individual and the body conferring citizenship implies its own set of obligations, in many cases those obligations can coexist but there still needs to be some mechanism to resolve those obligations when they come into conflict.^{lxvi}

2.1 Global Justice

Cosmopolitanism can be understood as a theory about identity and responsibility. As a theory of identity, it holds that people do not need to be members of a specific cultural community to live a good life. As a theory of responsibility, it holds “that that one should appreciate that one is a member of a global community of human beings”^{lxvii} and this entails us each having responsibilities to other members. Put like this cosmopolitanism as a theory of responsibility seems uncontroversial. The challenge arises when one considers that human rights have priority over rights acquired as a member of a state or other political or cultural community. If Steiner is correct and human rights can be understood as vetoes against the actions of others then they are fundamental and require satisfaction for justice.^{lxviii} Such vetoes motivate duties, which similarly to liberty and rights, can themselves be expressed in the positive, I must, and the negative, I must not, do.

What then are Human Rights, Gillian Brock claims “we are obliged to ensure that people are adequately positioned with respect to meeting their basic needs.”^{lxix} In attempting to determine the relevant rights for global redistribution one can start with the United Nations Universal Declaration of Human Rights, Article 25 states;

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.^{lxx}

The question then is who or what do these right provide vetoes against who is obligated in the satisfaction of these rights. If cosmopolitans are correct then the reach of these rights is global, the fact that these rights obtain on account of our shared humanity is enough to incur

an obligation on everyone, to various degrees, who similarly share the human rights under question, then we are collectively responsible for the satisfaction of such rights.

As should be obvious from the previous section Carol Gould's principle of Equal Positive Freedom can be placed firmly within the cosmopolitan tradition. In advocating for Human Rights defences of freedom the implications are that the rights advocated for apply to all humans. An advantage of this approach is that Human Rights have been established in the debates around justice. There are, although not universally accepted, strong commitments to at least developing economic distributions required to ensure subsistence at a minimum. While the constitutionality of human rights is embedded into nation states and it is states that are signatories moves away from understanding them and delivering them within the scope of national organisations to international organisations is already underway. Human rights encapsulated within the terms of the United Nations also has the benefit of oversight. Indeed, the United Nations already has Sustainable Development goals that cover a number of basic and non-basic human rights. Gould's goal is to reconcile the cosmopolitanism of human rights, the obligations that are incurred as members of political and subnational communities and the implications of social relatedness given globalisation.^{lxxi} Gould highlights a disturbing trend that while increasing globalisation is driving degrees of cultural hegemony, 16 year olds drinking coke wearing Levi's and listening to MTV^{lxxii} there is resistance to this which is leading to culturally particularistic movements that risk being exclusionary and divisive. Where local populations are changing and demonstrating a resistance to change discrimination can reflect a local populations interests but this cautions against giving to much priority to interests that should be denied. Arguments around cultural and value hegemony must be defended, if they can, from perspectives that do not rest on prejudice, legitimate concerns cannot rest on illegitimate foundations.

Charles Beitz considers the arguments in favour of international redistributive schemes consistent with the view that states are "self-sufficient cooperative schemes".^{lxxiii} This is not to say that all states, indeed any states are best described as such, the flow of people, goods and capital across national borders is vastly increased in recent decades, and there are a wealth of international treaties and organisations putatively responsible for the terms and manner of this movement. It is becoming increasingly difficult to argue against global cooperative schemes being of paramount importance in the current world. However, the motivation for international distributive justice isn't just that this scheme exists it is also the nature of this order.

Beitz argues that Rawls two principles could be adapted to suit a global ethic. The premise this argument is based on is as follows;

If evidence of global economic and political interdependence shows the existence of a global scheme of social cooperation, we should not view national boundaries as having fundamental moral significance.^{lxxiv}

It is straightforward enough to point at international agreements of social co-operation thus the Original Position could be so designed as to have the veil also cover the nations to which the participants belong, ignorant of “all matters of national citizenship”, if the two principles of justice are selected in the original position they will apply globally. Note that this is not an argument in favour of those principles, instead it is an argument in favour of extending the choosing position to cover global distributions.

2.2 Local Justice

Kor Chuck-Tan defines the contrasting view to cosmopolitanism, nationalism as the view that nations and national affiliations determine the terms of global justice.^{lxxv} This view holds that despite the deprivation of the global poor relative even in relation to the poor with whom we share citizenship our shared citizenship is sufficient to generate special obligations that are not shared by the global community. While the cosmopolitan denies this and holds that national citizenship is arbitrary and as such fails to generate special obligations. Miller contests this view and argues that there is a conflation between different meanings of arbitrary. While being born a citizen of a particular country can be considered fortunate or unfortunate and so arbitrary in this sense it does not follow that citizenship is arbitrary in that it fails to generate any special obligations. To demonstrate the distinction, he uses the example of a child born with special needs, the child did not deserve to be born that way but regardless the needs themselves generate obligations to the child. Miller claims the cosmopolitan relies on an ambiguous interpretation of arbitrary to move from the descriptive claim that some morally relevant factors are undeserved to the normative claim that such factors do not generate special obligations.^{lxxvi} While this may be correct it doesn't follow that all arbitrary distinctions succeed in generating special obligations. For this Miller needs to demonstrate how shared citizenship generates these obligations, this he does by distinguishing special and general obligations then argues that it is due to the intrinsic good of shared citizenship that generates the special obligations. We can then distinguish between those non-citizens that have an equal moral status and those citizens for whom the moral status generates special obligations.^{lxxvii}

Where Brock provides accounts of cosmopolitanism as theories of identity and responsibility David Miller offers accounts that are moral or political in nature. Political cosmopolitanism is the advocacy of one world government and Moral cosmopolitanism being equal respect of each individual's rights. If there is no appetite for political cosmopolitanism then how are the rights, and responsibilities or duties to be enforced.^{lxxviii}

One of the examples used by Richard Miller in favour of preferential treatment being afforded to fellow citizens seems not to support that view but instead leverages some other morally relevant factor. He argues that if he comes across a child who will come to some harm without his intervention it would be morally wrong to fail to intervene yet if he fails to help some remote child through giving to charity he is not due the same moral censure.^{lxxix} Yet I am not sure that Miller would argue that if he was on vacation and similarly came across a child he would be less morally culpable for failing to save them. Nor if he was at home and failed to intervene would later discovering that the child was of a different nationality spare him that moral sanction. It seems that it is not citizenship but proximity that is relevant in this case.

Similarly, a responsibility to act to prevent a child drowning can be distinguished from a case where one may contribute to a health cost irrespective of the nationality of the child involved. While it is arguable that the consequences of failing to intervene in remote cases are as morally wrong as failing to act in proximate cases I can cede this argument at this point and still hold this does nothing to support his thesis that I have a greater responsibility to those with whom I share citizenship.

Peter Singer's approach to Miller is to deny outright the view that we have a greater moral responsibility with those we share citizenship;

“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.”^{lxxx}

Impartiality requires the denial of distance as a morally relevant fact else we introduce arbitrary concerns into the moral calculation;

“it makes no moral difference whether the person I can help is a neighbour's child 10 yards from me or a Bengali..., ten thousand miles away.”^{lxxxii}

While in Miller's case above it could be argued that the distinction between the two cases, the child drowning and the child requiring medical care manifests due to the fact that in the child drowning scenario we are the only ones that can save the child and in the health care case there are others similarly situated but an implication of Singer's view is that it is not relevant whether I am the only person that can assist, my moral obligations are not contingent on the same obligation obtaining for others.^{lxxxii}

This view opens Utilitarians to another criticism in addition to the ones cited by Rawls, that is the over-demandingness objection, given we live in a world with hundreds of millions of people living below the absolute poverty line Singer's view results in those of us fortunate enough to live relatively in wealthy countries having substantial moral obligations to the poor. If we accept a maximising act-consequentialist view we incur significant costs in discharging our moral obligations. Rawls criticism of utilitarianism in light of these demands seems misplaced, if utilitarianism is silent on the distribution of the good then why am I obliged to provide aid to those most in need. The utilitarians answer to this is a principle of diminishing marginal utility. The ability of economic resources to increase happiness or welfare or preference satisfaction diminishes as the amount of economic resources increases, thus the wealthy transferring wealth to the poor increases both total and average welfare. This diminishing return can be seen if we consider that the difference between starving and being fed is going to increase welfare to a greater extent than the difference between having a meal that provides adequate sustenance and one that is incredibly expensive.

Singer essentially accepts the over-demandingness objection and acknowledges that he acts wrongly when he does less than he can because it “doesn't vitiate the claim it is what I should do.”^{lxxxiii} Liam Murphy disagrees and in order to define a “limit to how great a sacrifice morality... can legitimately demand of agents.”^{lxxxiv} People living in wealthy nations acting in accordance with Singer's principle of beneficence would devote most of their resources and energies to those less fortunate. In order to relieve this burden Murphy introduces the idea

that one's obligations can be discharged by doing one's fair share which can be understood in terms of the amount required if everyone provided the same efforts or resources. While this may appeal to those who wish for their moral obligations to be discharged with an appeal to fairness it is possible to demonstrate that such a view incurs its own problems. Arneson for instance points out that if there are 100 people drowning and 100 people in safety with access to lifejackets then throwing 1 lifejacket to a drowning person would hardly be considered sufficient to discharge one's obligations.^{lxxxv}

Richard Miller himself allows that we have a responsibility to the global poor because;

“affluent people in the per-capita richest countries are apt to derive considerable material benefits from such bargaining disadvantages of poor foreigners.”

Miller thus draws a distinction between a state's responsibilities to local poor and an individual's responsibilities to the global poor. But if affluent people are deriving this benefit they are doing so under agreements signed by states. The distinction then becomes untenable if the reasons that motivate an individual's responsibilities are also shown to apply to the state in which they live. These bargaining disadvantages are derived from the relative strength of the states engaged in the bargain. It is inconsistent to apply a standard to personal behaviour based on disadvantage derived from institutional arrangements then exclude those institutions from the same standards. If the affluent have obligations to the poor because of the derived benefits of advantaged bargaining positions, then there are pragmatic reasons to apply tax to the affluent for the purposes of satisfying those obligations. I don't have to cede moral concern being equivalent to moral consideration to allow that such obligations are better serviced through institutional arrangements.

Nussbaum places the development of capabilities within a framework of nations she considers that nations have moral importance, that democracies are systems of principles and laws that have their ultimate source within the people.^{lxxxvi} Global government would be unable to account for the diversity of experience and tradition across cultures and while the capabilities and development approach has been adopted by various international organisations it is generally for the purpose of comparative analysis.^{lxxxvii} However she acknowledges that “there exists such inequality in basic life chances that seem unconscionable from the standpoint of justice”.^{lxxxviii} There are both historical reasons for supporting redistribution from wealthy nations to poorer nations, most notably the history of colonialism that is fundamental to the relative wealth of these nations and the current political and economic frameworks that often advantage the richer nations at the expense of the poorer nations. It is not plausible to argue that consumers in affluent countries are not responsible for the plight of those in the poorer countries when both historic and contemporary causes entrench those inequalities. Nussbaum's is a compromise position advocating that the richer nations provide aid to the poorest at a minimum of 2% of Gross Domestic Product as multinationals, states, agencies and international agreements all have a causal role in inequality all have some responsibility to secure capabilities across borders.^{lxxxix} Nussbaum thus combines a desire to secure capabilities globally with responsibilities of the rich while ceding that you will never achieve the level of capability security globally that is available at the level of the nation state. Nussbaum challenges the notion of Rawls that there is a two stage process in securing the fundamental principles within a nation then negotiating

a thin agreement between nations that can't reference the internal structures or allocations of nations.^{xc}

2.3 Practical considerations on the domain of justice

There are certain issues where national responses are insufficient. In this section I will consider two, that is immigration and the environment. While the issue of global poverty is also of great import this are at the heart of cosmopolitan redistributive models. However, both immigration and the environment demonstrate clearly the deficiencies in models that fail to give sufficient weight to the global community. Issues such as immigration the environment and global poverty are also interrelated. Rendering land unusable will create migratory pressures and result in increased extreme poverty where people currently able to eke out a subsistence level from the land will be unable to. Poverty already motivates migration and while members of a community transferring money back to their original community or their family may alleviate poverty for some it is hardly a long-term solution to systemic poverty. However, in this section I will endeavour to treat these topics discretely. I will attempt to demonstrate that each of these issues motivates acceptance of a global ethic.

In the section above Richard Miller argues that the motivation for special obligations to one's fellow citizens is motivated by the coercive constraints parties are subjected to by the state in which some benefit and some are disadvantaged. If the benefits I am afforded derive from social and political structures that don't benefit my compatriots to the same amount or leave them sufficiently disadvantaged to warrant moral concern, then I have obligations to them. However as mentioned Sarah Fine argues that non-citizens are also subject to constraints whenever states exclude people from their territory. Where the argument is that members of a political community are entered into some social contract then we deny those that would voluntarily enter into such a contract while conferring the rights of those born qualified for citizens irrespective of their own views. It is difficult on this account to see how such a scheme avoids moral arbitrariness. There is however another way to present this argument. If countries have been subject to colonial rule then the colonial power(s) are in some significant way responsible for the current state of the populations, ignoring this requires a degree of ahistorical analysis that becomes difficult to defend. In this context allowing members of previously colonised countries immigrate can be seen as restitution. Many countries have historically and contemporaneously discriminated on grounds of race, from the White Australia policy of the 20th century^{xcii} to current issues in excluding Windrush generation immigrants and their families despite them arriving as citizens, and the current debate in the United States regarding immigrants from Muslim majority countries. While the latter two cases aren't specifically built on the race of the people involved it is difficult to defend such policies as not being racially motivated. If we acknowledge that race is an entirely arbitrary moral fact, then we must avoid policies where it is factored in whether implicitly or explicitly.

When the argument is presented as the need immigration control derives from the right of people to protect their cultural traditions and population control as David Miller does in *Immigration: The case for limits*.^{xciii} It necessarily places population control in the realm of states, when population control is a global concern. It ignores whether from a global perspective whether access to wealthier states reduces the motivations for large families and arbitrarily defines population control as a concern without any need to look empirically at

how migration impacts populations over time. While the political theorists and philosophers may address questions theoretically the assumptions upon which such theories are premised are often open to empirical challenge. It also takes some reductive understanding of culture and values to define the benefit of immigration controls in these areas, as Gould points out above there are greater degrees of cultural hegemony now than at any time in history. Similarly, what does it mean to talk of a community's values? Political disagreements often reflect substantive differences in values, to ignore this reduces politics to the relative merits of different management teams. Even if we take a holistic view of values and consider them in terms of the enlightenment there is both significant disagreement and a history that rejects the view that these values have been consistently applied by those states who are held to cherish them. It is also true that cultural values are not particular to countries and it is the goal of much of moral theory to argue what these values are, if we contrast the opinion of someone that values freedom of movement to someone who prefers cultural homogeneity to argue against freedom of movement for the benefit of cultural homogeneity begs the question of whether that is an appropriate value to defend.

Similarly, the question of the environment can best be understood globally. While borders may place restrictions on the free movement of people, goods and capital they are yet unable to restrict the environmental impact of decisions made across the globe. The existence of international agreements on climate change with national goals demonstrates the interdependence of countries. We may have pragmatic reasons for tackling the issue locally, but local initiatives will make contributions to a nation's global obligations. Environmental considerations provide an incredibly strong argument against the type of communitarianism that suggests "all ethical obligations derive from and depend upon relationships, and that where there are no ties of community and no relationships there are no such obligations, nor motivations to behave as if there were".^{xciiii} Yet environmental considerations generate relationships, I do not need to engage with every individual to have an operational relation to them. My choices in purchasing and consumption involve people and effect people globally. To attempt to maintain a nationalistic preference under such circumstances takes too narrow a view on what relations entail. If my membership of a community generates obligations I may have as much personal involvement with distant people than I have my neighbours. It is true that arguments in favour of addressing global environmental issues can be structured around national or even community interests the point here is to demonstrate the relatedness of people globally.

Environmental considerations can also motivate concern for future people and non-human animals. Where the damage we do to the environment has lasting implications it will affect people not yet born. Even when we define some ethic in relation to states it becomes more difficult to account for future people in terms of cultural or value hegemony and within the social contract tradition and the obligations generated towards future people is much easier to reconcile with a cosmopolitan ethic.

To argue that we have no obligations to those yet born can be refuted, I believe, by the view that our obligations to others are in some part derived from historical injustice. Attfield argues that intergenerational equity has "significant moral significance".^{xciiv} These responsibilities are contingent on the relative power held by individuals now. Just as the demandingness of one's obligations to the poor are contingent on the wealth and influence a person holds the

obligations to future peoples should also be subject to the same contingencies. While those of us who live in relatively wealthy countries have engaged in behaviours that have damaged the environment both in our personal choices and via the industries that have contributed to our wealth if environmental considerations take precedence we must find ways to redistribute the wealth generated by those practices to those countries who haven't born the same benefits. We should also acknowledge the restrictions necessary on future industrial development must account for extra expense both by way of restitution for the damage already done and to incentivise better practices than the wealthy countries have engaged in for centuries. It is not enough to say that we should centre the environment without acknowledging that relative positions of countries are often in direct proportion to their contributions to environmental damage. Prioritising the negative duty of doing no harm gives us a clear motivation for redistribution. Similarly if wealth is correlative to family size then redistribution provides opportunities to reduce mortality rates and thus the need for larger families.

2.4 Concluding remarks on the domain of justice

Rawls work is in the Social Contract tradition and as such a preference for the primacy of local justice is consistent with the rights and responsibilities inherent within an individual's relationship to the state they contract with. If we understand a state's responsibilities to tax payers as an exchange of tax for some services and tax spending both as entitlement and investment spending as part of this social contract a state's responsibilities to the population within its jurisdiction seems obvious. Richard Miller claims that in a society in which there is significant inequality duties to our fellow citizens are motivated from the coercive institutions and structures that apply to members and on these grounds Miller denies that equal moral respect is equivalent to equal moral consideration.^{xcv} For Richard Miller this subjection to laws and institutions also explains one's obligations to people that may not be citizens but with whom we live under a shared jurisdiction. Thomas Pogge and Sarah Fine take two different approaches to refute this. On the one hand Pogge argues that by signing international treaties and enforcing international obligations institutions such as the United Nations, the International Monetary Fund and the World Trade Organisation are also coercive and morally relevant obligations are generated by them. Fine points out that by policing borders states also coerce non-citizens by regulating their free movement. A consequence of Fine's approach of understanding borders as means of coercion is we must either compensate those who we would deny access or allow universal access on Richard Miller's terms. For Pogge on the other hand the existence of international institutions motivates moral consideration for others outside our borders. For Pogge the relevant duty is not some positive duty of beneficence, but a duty incurred by failing the negative duty of doing no harm, one which he holds is derived from the role of global organisations in ensuring that unequal distributions are maintained.^{xcvi}

In the example used above where Richard Miller contests he has a special duty to a child in front of him that he doesn't have to a distant child in need I have hopefully demonstrated that citizenship is not the relevant moral factor. It is not the nationality of the child that is important in the example he gives. Further if there are special obligations because of the inherent good of shared citizenship and special obligations as a function of community how do I decide between these when I am not a citizen of the state where I am a member of a

community. Where is the line drawn between those with whom I share a moral status and those with whom I have special obligations?

What the differences in these approaches highlight is the need for structural inequality to be addressed by changing the structures that reinforce it. There are limits to how much individuals can do and while beneficence and environmental awareness is to be encouraged changes are required at an institutional level for the demands of justice to be satisfied. Nussbaum in particular makes clear that under a utilitarian perspective NGO's would rule the world given a highly stringent demand on individual philanthropy in richer countries which in turn would leave NGO's richer than countries but free of any democratic control, and that utilitarianism so framed would be unable to free people to make choices given the restrictions on their freedom to choose to live their life as they wish without failing in their moral responsibilities.^{xcvii}

If the domain of justice really is global then it can't be left to unaccountable bodies to ensure that the demands of justice are met. There is clearly scope for NGO's and bodies financed by philanthropy to do important and necessary work, but if justice is the normative property of social institutions as Hirose claims then those institutions require democratic accountability and oversight.^{xcviii} Further if the demands of justice extend globally on account of inequality derived from either current or historic transfers of wealth and resources then the demands are against nations and peoples, and NGO's may just be the instruments by which they are addressed but they are not the instruments that generate the requirements for justice.

Immigration and the environment both provide ample motivation for considering claims of equal moral consideration seriously. If liberal claims of autonomy and choice are to be taken as fundamental moral goods seriously restricting those opportunities on the grounds of citizenship and nationality is morally untenable regardless of our putative commitment to states.

Conclusion

It seems true that arguments for and against various conceptions of equality and against the egalitarian goal are successful enough to maintain reasonable disagreement on both the currency and scope of egalitarian justice. Philosophers have proven to be particularly adept at contriving cases that demonstrate the flaws in the various accounts discussed and as a result, a definitive metric of equality remains elusive. Just as people value different things there are organisations working to improve the resources, capabilities and welfare available to the poorest. It should not be lost in a search for a definitive answer to the question of what a just world looks like that we can also ask what a less unjust world looks like, we are hardly at the point where we are unable to improve the situation of the worst off, locally and globally, while we attempt to provide a conclusive answer to the former.

The approaches from Sen and Nussbaum in particular offer clear project for considering what people are in fact able to do and achieve while Carol Gould provides a theoretical framework that centres autonomy and a positive concept of liberty which avoids the impoverished

account of liberty that ignores what can actually achieve. It is sensitive to both choices and the individual desires of human beings.

The debate between nationalism and cosmopolitanism seems less complex, it can both be true that issues are better addressed locally and that I should have equal concern for citizens and non-citizens. I can cede special obligations to family members, friends and people within my local community without extending those obligations to those with whom I share citizenship. If the liberal defends a notion of value pluralism, then there is a burden on them to determine why special obligations hold against citizens and avoid arbitrariness. Even when I have special obligations to family members I do not necessarily do them wrong if I forgo giving some sum that would benefit them to someone it would benefit more. The claim that citizenship entails special obligations due to shared coercive structures can be rejected if we believe that non-citizen residents of a political jurisdiction are subjected to the same coercive pressures as residents and if non-citizen residents incur obligations based on residency within a political jurisdiction that dominate any obligations to the country of which they are citizens. Where my neighbours are treated harshly because they are not citizens that may motivate my concern to aid them and, in such cases, it is a lack of shared citizenship that is the motivating factor.

Again, regarding cosmopolitanism Sen, Nussbaum and Gould leverage the international organisations currently involved in both delivering and monitoring the development of capacities and capabilities. While the development of capacities and capabilities must take account of local needs and traditions it must also be sensitive the variations in regional inequalities. Where people have been subject to unfair discrimination in the labour market, where rights are denied on account of race and gender the development of substantive freedoms much look to address the impact of such inequality and this will require global oversight.

There are within western liberalism assumptions regarding the ideal forms of governance and political institutions and structures that are held to be exemplars of the values of western liberal tradition often fail in their attempt to pursue it. It is a reach to expect communities that have suffered historically under the colonialism of western powers to then accept that western liberalism is correct. If wealth of the west is founded on exploitative relations, then calls for reparative justice can be seen both as distinct from any egalitarian thesis but also as motivating a cosmopolitan account rather than one subjected to arbitrary national boundaries.

Regardless of whether we consider that responsibilities extend either on the basis of consequences or rights there is little reason to only extend those responsibilities to nation states. The world is a product of its history and its history does not lend itself to breaking down into the history of countries, boundaries change, are determined by forces within and without and what we are left are pragmatic reasons for considering the nation state as morally important, government addressing local issues may be more efficient than addressing distant ones. The most morally important questions of the day such as global poverty, the

environment and immigration can't be addressed without international and intranational agreements. It is not feasible to suggest that a nation can act in its interest while simultaneously acting against others with regard to the environment because environmental change is likely to increase the rate of global migration and the distribution of global poverty.

Bibliography

- Attfield, Robin, *Environmental Ethics*, (Polity Press, 2014)
- Beitz, Charles R., *Political Theory and International Relations*, (Princeton University Press, 1999)
- Berlin, Isaiah, "*Two Concepts of Liberty*" From *Liberty: Incorporating 'Four Essays on Liberty'* (Oxford University Press, 2002)
- Brock, Gillian, *Global Justice* (Oxford University Press, 2009)
- Brock, Gillian, and Brighouse, Harry, eds., *The Political Philosophy of Cosmopolitanism*, (Cambridge University Press 2005)
- Chatterjee, Deen K., Ed. *The Ethics of Assistance* (Cambridge University Press, 2004)
- Christman, John, "Liberalism, Autonomy, and Self-Transformation" from *Social Theory and Practice*, Vol. 27. No. 2 (April 2001)
- Christman, John, *Liberalism and Individual Positive Freedom*, *Ethics*, Vol. 101, No. 2 (The University of Chicago Press Jan., 1991)
- Cohen, G.A., *On the Currency of Egalitarian Justice*, (Princeton University Press, 2011)
- Cohen, G. A., *Rescuing Justice and Equality* Harvard University Press 2008)
- Cohen, G. A., *Self-Ownership Freedom and Equality*, (Cambridge University Press 1995)
- Dworkin, Ronald, "What is Equality? Part 1: Equality of Welfare" *Philosophy & Public Affairs*, Vol. 10, No. 3 (Wiley Summer, 1981), pp. 185-246
- Dworkin, Ronald, "What is Equality? Part 2: Equality of Resources" *Philosophy & Public Affairs*, Vol. 10, No. 4 (Wiley, Autumn, 1981), pp. 283-345
- Fine, Sarah, & Ypi, Lea, Eds., *Migration in Political Theory*, (Oxford University Press, 2016)
- Gould, C., Carol, *Interactive Democracy*, (Cambridge University Press, 2014)
- Gould, C., Carol, *Globalizing Democracy and Human Rights*, (Cambridge University Press, 2004)
- Hirose, Iwao, *Egalitarianism*, (Routledge, 2014)
- MacCallum, Jr, Gerald C. *Negative and Positive Freedom*, from: *The Philosophical Review*, Vol. 76, No. 3 (Jul., 1967),
- Miller, David, *National Responsibility and Global Justice*, (Oxford University Press, 2007)
- Murphy, Liam, "The Demands of Beneficence," *Philosophy & Public Affairs*, Vol. 22, No. 4 (Autumn, 1993)
- Nozick, Robert, *Anarchy State and Utopia*, (Blackwell Publishing, 1974, 2012)
- Nussbaum, Martha C., *Creating Capabilities: The Human Development Approach*, (Harvard University Press, 2013)
- Pettit, Philip, *Republicanism: A Theory of Freedom and Government*, (Oxford University Press, 1999)
- Plant, Raymond, "Freedom," *Freedom*, from: *The Oxford Handbook of the History of Political Philosophy*, (Oxford University Press 2011)
- Rawls, John, *The Law of Peoples*, New Ed., (Harvard University Press, 2001)

Rawls, John, *The Law of Peoples*, *Critical Inquiry*, Vol. 20, No. 1 (Autumn, 1993)
Rawls, John, *Theory of Justice*, Revised Edition (Belknap, Cambridge Massachusetts: Harvard University Press, 1971 1999)
Sandel, Michael J, *Liberalism and the Limits of Justice* 2nd Ed (Cambridge University Press, 1982 1998)
Sen, Amartya, *Development as Freedom*, (Oxford University Press, 1999)
Scanlon, T. M., *Why Does Inequality Matter?*, (Oxford University Press, 2018)

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- ⁱ T. M. Scanlon, *Why Does Inequality Matter?* (Oxford University Press, 2018), p.?
ⁱⁱ Isaiah Berlin, *"Two Concepts of Liberty"* From *Liberty: Incorporating 'Four Essays on Liberty'* (Oxford University Press, 2002), p. 169.
ⁱⁱⁱ *Ibid.*, p. 169.
^{iv} Philip Pettit, *Republicanism: A Theory of Freedom and Government*, (Oxford University Press 1999), p. 18
^v Raymond Plant, *Freedom*, from: *The Oxford Handbook of the History of Political Philosophy*, (Oxford University Press 2011), p. 625.
^{vi} John Christman, *"Liberalism, Autonomy, and Self-Transformation"* from *Social Theory and Practice*, Vol. 27, No. 2 (April 2001), p. 188
^{vii} John Christman, *Liberalism and Individual Positive Freedom*, *Ethics*, Vol. 101, No. 2 (The University of Chicago Press Jan., 1991), p. 346.
^{viii} Gerald C. MacCallum, Jr. *Negative and Positive Freedom*, from: *The Philosophical Review*, Vol. 76, No. 3 (Jul., 1967), p. 314.
^{ix} John Rawls, *Theory of Justice*, Revised Edition (Belknap, Harvard University Press, Cambridge Massachusetts 1971 1999), p.10.
^x *ibid.*, p. 110.
^{xi} *ibid.*, p. 266. I have cited the final formulation of the two principles.
^{xii} *ibid.*, p. 104.
^{xiii} *ibid.*, p. 222.
^{xiv} Robert Nozick, *Anarchy State and Utopia*, (Blackwell Publishing, 1974, 2012), pp. 232-239
^{xv} *ibid.*, p. 204
^{xvi} *ibid.*, p. 205
^{xvii} *ibid.* p. 71-72
^{xviii} G. A. Cohen, *Self-Ownership Freedom and Equality*, (Cambridge University Press 1995), p. 237
^{xix} G. A. Cohen, *Rescuing Justice and Equality* Harvard University Press 2008), p.5
^{xx} Michael J Sandel, *Liberalism and the Limits of Justice*, 2nd Ed (Cambridge University Press 1982 1998), p.25
^{xxi} Cohen, 2008, op. cit., p.285
^{xxii} *ibid*
^{xxiii} Amartya Sen, *Development as Freedom*, (Oxford University Press, 1999), p.13
^{xxiv} Martha Nussbaum, *Creating Capabilities: The Human Development Approach*, (Harvard University Press, 2013), p.69
^{xxv} Sen, op. cit., P.285
^{xxvi} *Ibid.*, p.72
^{xxvii} *Ibid.*
^{xxviii} *Ibid.*, p.73, emphasis in the original
^{xxix} *Ibid.*
^{xxx} *Ibid.*, p.75
^{xxxi} *ibid*
^{xxxii} *Ibid.*, p.77
^{xxxiii} Nussbaum, op. cit., P.18
^{xxxiv} *ibid*
^{xxxv} *Ibid.*, p.24
^{xxxvi} *Ibid.*, p.20
^{xxxvii} *Ibid.*, p.26
^{xxxviii} *Ibid.*, p.70
^{xxxix} Ronald Dworkin, *"What is Equality?" Part 1: Equality of Welfare* *Philosophy & Public Affairs*, Vol. 10, No. 3 (Wiley Summer, 1981), pp. 185-246

-
- ^{xi} Ibid., p.186
- ^{xii} Ibid., p.201
- ^{xiii} Ronald Dworkin, "What is Equality?" Part 2: Equality of Resources *Philosophy & Public Affairs*, Vol. 10, No. 4 (Wiley, Autumn, 1981), p.283
- ^{xiii} Ibid., p.284
- ^{xiv} Ibid., p.288
- ^{xv} Ibid., p.289
- ^{xvi} Ibid., p.304
- ^{xvii} Ibid., p.290-291
- ^{xviii} Ibid., p.295
- ^{xlix} Iwao Hirose, *Egalitarianism*, (Routledge, 2014), p.45
- ^l G.A. Cohen, *Rescuing Justice and Equality* Harvard University Press 2008) p. 156
- ^{li} G. A. Cohen, *On the Currency of Egalitarian Justice*, (Princeton University Press, 2011), p.5
- ^{lii} Ibid., p.11
- ^{liii} Ibid., p.50 italics in the original
- ^{liv} Ibid., p.51
- ^{lv} Carol Gould, *Interactive Democracy*, (Cambridge University Press, 2014), p.16
- ^{lvi} Ibid., p.17
- ^{lvii} Ibid., p.18
- ^{lviii} Ibid., pp.18-19
- ^{lix} Ibid. p.23
- ^{lx} Nussbaum, *op. cit.*, p.82
- ^{lxi} Ibid., p.83
- ^{lxii} John Rawls, *The Law of Peoples*, New Ed., (Harvard University Press, 2001)
- ^{lxiii} John Rawls, *The Law of Peoples*, *Critical Inquiry*, Vol. 20, No. 1 (Autumn, 1993), p.38
- ^{lxiv} Peter Singer, *Outsiders*, From Chaterjee, Deen K., Ed. *The Ethics of Assistance* (Cambridge University Press, 2004), p.26
- ^{lxv} Robin Attfield, *Environmental Ethics*, (Polity Press, 2014), p.180
- ^{lxvi} Ibid., p.179
- ^{lxvii} Gillian Brock, *Global Justice*, (Oxford University Press, 2009), p.8
- ^{lxviii} Hillel Steiner, *Territorial Justice and Global Redistribution*, From Brock, Gillian, and Brighouse, Harry, eds., *The Political Philosophy of Cosmopolitanism*, (Cambridge University Press 2005) p. 31
- ^{lxix} Brock, 2009, *op. cit.*, p.63
- ^{lxx} UN Universal Declaration of Human Rights <http://www.un.org/en/universal-declaration-human-rights/>
- ^{lxxi} Gould, *op. cit.*, p.24
- ^{lxxii} Carol C. Gould, *Gould, C., Carol, Globalizing Democracy and Human Rights*, (Cambridge University Press, 2004), p.118
- ^{lxxiii} Charles R. Beitz, *Political Theory and International Relations*, (Princeton University Press, 1999), p.143
- ^{lxxiv} Ibid., p.151
- ^{lxxv} Kok-Chor Tan, *The demands of justice and national allegiances*, from Brock, Gillian, and Brighouse, Harry, eds., *The Political Philosophy of Cosmopolitanism*, (Cambridge University Press 2005), p.167
- ^{lxxvi} David Miller, *National Responsibility and Global Justice*, (Oxford University Press, 2007), p.33
- ^{lxxvii} *ibid* p.38
- ^{lxxviii} *ibid* p.25
- ^{lxxix} Richard W. Miller, *Moral closeness and world community*, From Chaterjee, Deen K., Ed. *The Ethics of Assistance* (Cambridge University Press, 2004), p.101
- ^{lxxx} Peter Singer, *Famine, Affluence, and Morality* *Philosophy and Public Affairs* Vol. 1, No. 3, Spring, 1972, Princeton University Press p.231
- ^{lxxxi} *ibid.* pp.231-232
- ^{lxxxii} *Ibid*, p 232
- ^{lxxxiii} Peter Singer, *Outsiders*, From Chaterjee, Deen K., Ed. *The Ethics of Assistance* (Cambridge University Press, 2004), p.29
- ^{lxxxiv} Liam Murphy, *The Demands of Beneficence*, *Philosophy & Public Affairs*, Vol. 22, No. 4 (Autumn, 1993), p.268
- ^{lxxxv} Richard J. Arneson, *Moral limits on the demands of beneficence*, From Chaterjee, Deen K., Ed. *The Ethics of Assistance* (Cambridge University Press, 2004) pp. 35-39

lxxxvi Nussbaum, op. cit., p.113

lxxxvii Ibid., p.17

lxxxviii ibid p.115

lxxxix Ibid., 117

xc ibid

xcI Fine, op. cit., p.136

xcii David Miller, Immigration: The case for limits: Excerpted from Fine Immigration and discrimination p.140

xciii Attfield, op. cit., p.181

xciv Ibid., p.102

xcv Richard W. Miller, 2004 op.cit., p.102

xcvi Thomas Pogge, World Poverty and Human Rights 2nd Ed (Polity Press, 2002, 2008), pp.118-122

xcvii Nussbaum, op. cit., 119

xcviii Hirose, op. cit., 46