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# Thinking about Justice in the Unjust Meantime

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## Thinking about Justice in the Unjust Meantime

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### Abstract

Many philosophers endorse the ideal of justice yet disagree radically over what that ideal requires. One persistent problem for thinking about justice is that the unjust social arrangements that originally motivated our questions may also distort our thinking about possible answers. This paper suggests some strategies for improving our thinking about justice in the unjust meantime. As our world becomes more just, we may expect our thinking about justice to improve.

**Keywords:** Ideal and non-ideal theory, structural epistemic injustice, epistemic democracy, experiments in living.

### 1. Philosophers Thinking about Justice

Western philosophers' thinking about justice has often taken the form of envisioning worlds that are more just than our own. Celebrated work in this tradition include Plato's *Republic*, Thomas More's *Utopia* (1516), and Rousseau's *Social Contract* (1762). Closer to our own time John Rawls's *A Theory of Justice* (1971) presents an ideal of the "well-ordered society."

Some feminist philosophers in the twentieth century used a similar method for thinking about gender justice. For example, the ideal of androgyny was widely discussed in the 1970s (Ferguson 1977; Trebilcot 1977; Morgan 1982). In 1983, I proposed an ideal society that would be genderless and classless (Jaggar 1983), and Susan Okin recommended abolishing gender (Okin 1989). In the 1990s, Martha Nussbaum proposed a partial standard of global justice formulated as a list of ten capabilities (Nussbaum 2000). In all these cases, feminist philosophers envisioned worlds whose gender relations they regarded as more just than our own as a method for diagnosing existing injustice and pointing a direction for social change.

Ingrid Robeyns has called such ideals mythical Paradise Islands. She writes:

We have heard wonderful stories about Paradise Island but no one has ever visited it, and some doubt that it truly exists. We have a few maps that tell us, roughly, where it should be situated, but since it is in the middle of the ocean, far away from all known societies, no one knows precisely where it is

situated. Yet we dream of going there and ask ourselves how we could get there, and in which direction we should be moving in order to eventually reach Paradise Island. (Robeyns 2008, 344–345)

Imagining alternative worlds is a type of utopian thinking.<sup>1</sup> Although this can be inspirational, the term “utopian” is also used dismissively to mean something like impractical dreaming. Marx was notoriously critical of utopian thinking because he thought it tended to produce visions of the future that were speculative, unjustified, ineffective, and premature (Ollman 2005).<sup>2</sup> Can imagined worlds be more than fantasies? Can they be taken seriously as guides to social/political action? For Rawls, at least, the answer is “yes.” He states that the ideal of the well-ordered society is intended to offer “a conception of a just basic structure and an ideal of the person compatible with it that can serve as a standard for appraising institutions and for guiding the overall direction of social change” (Rawls 1971, 263).

Rawls offers the term “ideal theory” for his method of thinking philosophically about justice. In *A Theory of Justice*, he set himself the task of ascertaining which principles of justice would characterize a fair system of social cooperation in which “the liberties of equal citizenship are taken as settled” (Rawls 1971, 3). He thought the most promising method for this undertaking was to begin by determining which principles of justice would be appropriate for regulating the basic structure of an ideal or “well-ordered” society rather than an existing one. Rawls did not suppose that the well-ordered society was empirically attainable but

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<sup>1</sup> In France, Britain, and the United States, the nineteenth century was the heyday of utopian thinking and many aspiring model communities were established at that time, though most of them died out by the end of the century. In the 1960s, similar aspirations re-emerged at least in Anglophone countries; in the 1970s, various radical feminist versions of utopian community building were evident in moves to establish “women’s land.”

<sup>2</sup> Bertell Ollman (2005) summarizes Marx’s criticisms of utopian thinking as follows: (1) utopian thinking tends to produce visions of the future that are unrealistically rigid and complete; (2) there is no basis for determining if a vision constructed in this speculative manner is desirable, if it really is the good society; (3) equally, there is no clear way of determining if it is possible, that is whether people will ever be able to build such a society, and, if they do, whether it will function as expected; (4) by taking up the space allotted to the future in our thinking, utopian visions undermine the possibility of making a dialectical analysis of the present as a temporal dimension in which the future already appears as a potential; (5) utopian thinking results in ineffective ways of arguing; and (6) it also leads to ineffective political strategies.

he wrote, “While the principles [of justice] belong to the theory of an ideal state of affairs, they are generally relevant” (Rawls 1971, 246). He thought that philosophers would better understand the confusing complexities of the real world if they began by reflecting on simplified models. In order for the models to be action-guiding in the real world, Rawls acknowledges that they must be supplemented by non-ideal theory, whose purpose is to figure out how the ideal may best be established in non-ideal conditions.

The well-ordered or “perfectly just” society that Rawls imagines resembles existing societies in many ways. Like many real-world societies, the well-ordered society enjoys generally favorable conditions but also suffers from moderate scarcity. This circumstance, together with disagreement among its residents in conceptions of the good life, means that the well-ordered society, like the real world, experiences conflict as well as cooperation (Rawls 1971, 4). However, the well-ordered society has some features that differentiate it sharply from real-world societies. For one thing, it is imagined as a society in which “everyone is presumed to act justly and to do his part in upholding just institutions,” so it is a world of “strict” as opposed to “partial compliance” (Rawls 1971, 8). In addition, it is imagined as a society that is more or less self-sufficient (Rawls 1971, 4) and “conceived as a closed system isolated from other societies” (Rawls 1971, 8).

Ideal theory methodology became very popular among philosophers in the decades immediately following the publication of *A Theory of Justice*. More recently, however, it has come under heavy criticism. How should its strengths and weaknesses be assessed?

## **2. Paradise for Whom?**

Philosophical Paradise Islands are not intended as working blueprints for building a just society. Instead, they offer standards of assessment and a compass for moving toward justice. However, a number of critics contend that Rawls’s ideal of a well-ordered society does not fulfil even these limited functions. They argue that the well-ordered society fails to meet several uncontroversial criteria of adequacy for a political ideal, including internal consistency, relevance, and normative acceptability.

Rawls envisions the well-ordered society as a fair system of social cooperation in which “the liberties of equal citizenship are taken as settled” (Rawls 1971, 3). In the well-ordered society, citizens are imagined as free, equal, and fully cooperating members of society over the course of a complete life. However, Eva Kittay argues that Rawls’s ideal of personhood structurally excludes two classes of persons from equal citizenship. One class is composed of people whose lives depend on hands-on care from others, some of whom will never be able to function as fully cooperating members of society. The other class is composed of people who provide

this care, people whom Kittay calls dependency workers. They are mainly women. For them, Kittay argues, “the non-fungible nature of much dependency work vitiates much of the freedom assumed available for the caregiver under equality of opportunity and constrains her, by ties of affection and sentiments of duty, to her charge” (Kittay 1999, 112). Kittay writes, “Between the idealization [of equal situation and equal powers] and the reality [of asymmetries of situation and inequalities of capability] lies the danger that dependents and dependency caregivers will fall into a worst-off position” (Kittay 1999, 92–93). In a somewhat similar vein, Margaret Walker argues that the ideals of human agency and society proposed by Rawls are unattainable by many people, especially those whose disadvantaged life circumstances do not permit them to form a rational plan of their whole lives or to live without regret (Walker 2008, 142–143). In the view of both these authors, Rawls’s ideal of the well-ordered society structurally excludes issues of justice for some vulnerable populations.

The same point is pressed from different angles by other critics. Susan Okin notes that Rawls’s theory of justice makes it impossible even to consider questions of justice within the household. This is partly because Rawls is not consistent in including the family among basic social institutions, partly because he imagines the parties who negotiate the basic principles of justice to be representatives of households whose internal justice is taken for granted. For these reasons, Rawls’s theory has no conceptual resources for considering the justice of the gendered division of household labor which disadvantages women in the world of paid work and renders them vulnerable to domestic abuse (Okin 1989). Charles Mills asserts that the “endless deferral” of race by Rawls and his followers amounts to philosophically marginalizing deep structural injustices that fundamentally affect the life chances of every citizen in the United States (Mills 2005). He says that the theory fails to acknowledge that we are “living in one of the most race-conscious societies in the world, with a history of hundreds of years of white supremacy” (Mills 2005, 177, 198). A third set of issues structurally excluded by Rawls are those surrounding migration justice. Rawls’s theory cannot address these issues because the well-ordered society is imagined as closed, entered only at birth and exited at death.

The problem is not simply that *A Theory of Justice* has gaps or is incomplete. It offers principles of justice for an idealized world that is unlike our own in many morally crucial respects. Its structural exclusion of some crucial issues of real-world justice bias the theory against the interests of several vulnerable populations, including those who are racialized, those who are disabled, those who wish to cross the society’s borders, and those who bear the responsibility for taking care of children or others unable to care for themselves. So, the well-ordered society would not be Paradise for many real-world populations. Although Rawls was personally committed to racial and gender equality, these personal commitments were not

fully integrated into his theory of justice, which lacks the resources to address racial injustice, disability, migration, the household division of labor, and the human need for hands-on care. The justice questions excluded from Rawls's theory are not minor issues affecting only a few people in unusual circumstances; instead, they profoundly affect the life prospects of everyone in modern societies. Insofar as the theory obscures and rationalizes injustice, it is normatively inadequate.

How should philosophers respond to these criticisms of the twentieth century's most influential ideal of social justice? Should we simply try harder to imagine an ideal that is more internally consistent, relevant, and normatively adequate? Or should we instead reconsider the methods by which Paradise Islands are designed?

### **3. Do Philosophers Employ Good Methods for Designing Paradise Islands?**

Philosophers designing ideal societies have utilized a variety of methods. One of the best known of these is contractarianism. The classical social contract theorists, such as Hobbes, Locke, and Rousseau, postulated hypothetical agreements that supposedly would be made by people living in a state of nature, which is imagined as a situation lacking an established political authority. The point of postulating such contracts is to justify the *prima facie* obligation to obey the law by persuading people that it would be in their self-interest to accept the coercion and inequality that are intrinsic to state power because only the state can guarantee freedom and equality. Robert Nozick (1974) utilizes a similar method to argue for a minimal libertarian state. Despite the popularity of this method, appealing to hypothetical contracts has little more evidential credibility than Rudyard Kipling's famous *Just So Stories for Little Children* (Jaggar 1993; Kipling 1902).

Imagined social contracts are one well-known type of thought experiment. Thought experiments are a favorite method of intuitionist philosophers, who rely on intuitions as philosophical data. In moral philosophy, thought experiments are typically simple stories designed to highlight factors believed morally crucial to a particular problem while eliminating detail believed to be irrelevant. The philosophers who design the experiments aim to invent situations that are analogous to the problem at hand on what they take to be its most relevant dimensions but to cut out details that they think constitute mere "noise." Famous thought experiments in contemporary moral philosophy include a fat man stuck in the mouth of a cave (Foot 1967), a hospital patient finding herself involuntarily providing life support to a famous violinist (Thomson 1971), and an able-bodied person who sees a child drowning in a shallow pond (Singer 1972). By means of these fictional stories, philosophers intend to "pump" people's intuitions about controversial situations in order to sharpen or modify those intuitions.

Intuitionism is also a problematic method. Rawls rejects it in part because he sees that our intuitions are developed in unjust societies and may be shaped by mistaken values. For this reason, they may rationalize conventional beliefs. As an alternative, Rawls develops his famous method of original position reasoning, many features of which are motivated by his desire to avoid the danger of conventionalism, which he sees as inherent in intuitionism. Rawls imagines multiple parties meeting in a fictional original position to determine the fundamental and permanent principles of justice for the future world that they will inhabit. The parties meet behind a “veil of ignorance,” which prevents them from knowing their particular places in society, their fortunes in the distribution of natural assets and abilities, and their conceptions of the good (Rawls 1971, 12). Rawls carefully designs the situation of the parties and the characteristics assigned to them with the aim of ensuring that the principles of justice on which they settle are freely agreed, impartial, and sustainable.

Rawls’s method of reasoning in a hypothetical original position has been criticized in turn by many philosophers. This elaborate thought experiment postulates a discussion among parties imagined as identical with each other, all with the same motivations, valued goods, and reasoning strategies. As discourse theorists have pointed out, it is quite misleading to represent such a conversation as a discussion because the parties are interchangeable with no variety in their perspectives. The supposed conversation is logically equivalent to a monologue by its author. Conceptions of justice produced by solitary armchair practices can only be as good as the political imaginations of their authors, and everyone’s imaginative capacities are limited. Discourse ethicists argue that we need to move beyond imagining what others might say to engaging directly with others in actual intersubjective reasoning (Habermas 1990).

Nussbaum appeals to four methods to justify her list of capabilities. The first method is what Nussbaum calls Aristotelian practical reasoning. This consists in critically refining *eudoxa* or reputable beliefs via “the exchange of reasons and arguments by human beings within history” (Nussbaum 1992, 215) Nussbaum asserts that examining “a wide variety of self-understandings of people in many times and places” reveals a “great convergence across cultures” and provides “reason for optimism that, if we proceed in this way, using our imaginations, we will have in the end a theory that is not the mere projection of our own customs but is also fully international and a basis for cross-cultural attunement” (Nussbaum 1992, 213–216). Brooke Ackerly has criticized Nussbaum’s appeal to this method. She says that the supposition that every society has subscribed to a single conception of the human good, even a vague one, is implausible and indeed that people’s deep beliefs seem often to be racist or otherwise discriminatory. Moreover, the method fails to

require that all available data be collected and provides no safeguard against its user interpreting the data through the prism of her own beliefs (Ackerly 2000, 102–110).

Nussbaum's second method, which she calls the narrative method, relies on the supposed testimony of two poor Indian women, Vasanti and Jayamma (Nussbaum 2000). However, Okin asserts that Nussbaum's work does not exemplify the "dialogue" with poor women that Nussbaum explicitly recommends. Okin charges that Nussbaum has failed to avoid the error of imposing on Vasanti and Jayamma categories that "reflect (her) own immersion in a particular theoretical tradition" (Nussbaum 2000, 39) and that, as their interpreter, she has allowed her own voice to dominate (Okin 2003, 297).

Nussbaum calls her third method the informed-desire approach. This method assesses preferences with a view to eliminating those that are corrupt or mistaken. It is coupled with Nussbaum's fourth method, which she calls the non-Platonist substantive-good approach. The latter is a type of intuitionism but discards intuitions that are "naïve or untutored" (Nussbaum 2000). I have argued that both of these methods allow Nussbaum too much latitude to produce the results she wants. Her test for determining whether a desire is informed seems to be whether or not the desire is for something on her capabilities list. Similarly, her test for determining whether an intuition is trustworthy seems to be whether or not it endorses the list of capabilities; indeed, the non-Platonist substantive-good approach explicitly authorizes its users to dismiss the ideas of those with whom they disagree. In the end, I argue, both these methods are simply claims to privileged moral authority and not good methods for developing any social ideals (Jaggar 2006).

Should philosophers work harder to develop better methods for designing Paradise Islands? Rather than trying harder to come up with better methods, some philosophers argue that the entire enterprise of designing ideal societies is misconceived.

#### **4. From Ideal to Non-ideal Theory**

Iris Young is one philosopher who challenges the goal set by ideal theorists. Although she aims to provide a normative theory of justice, she does not aim to produce an ideal that "both stands independent of a given social context and yet measures its justice" (1990). Young rejects "as illusory the effort to construct a universal normative system insulated from a particular society" (1990, 5). She thinks that, if a theory were truly universal and freestanding, "presupposing no particular social situations, institutions, or practices, then it is simply too abstract for use in evaluating actual institutions and practices" (1990, 4). Instead, Young thinks that the task of the political philosopher is to articulate "normative ideals and moral arguments intended both to reveal moral deficiencies in contemporary . . . societies



and at the same time to envision transformative possibilities in those societies” (Young 2000, 8–9).<sup>3</sup> So Young aims instead for what she calls a critical conception of justice that is tailored to a specific context rather than intended to be applicable for all contexts.

Charles Mills also argues against Rawlsian ideal theory. According to Mills, idealization in political philosophy is likely to distract from real-world injustice because “ideal theory either tacitly represents the actual as a simple deviation from the ideal, not worth theorizing in its own right, or claims that starting from the ideal is at least the best way of realizing it.” Mills asks rhetorically:

Why should anyone think that abstaining from theorizing about oppression and its consequences is the best way to bring about an end to oppression? Isn't this, on the face of it, just completely implausible? (Mills 2005, 171)

In Mills's view, the deficiencies in Rawls's substantive theory of justice suggest the need for an alternative non-ideal methodology.

The past two decades have seen a flood of philosophical debate on the merits of ideal versus non-ideal methodology in political philosophy. The debate has been confusing because ideal and non-ideal theory have been understood in several different ways. One line of discussion emphasizes a distinction between abstraction and idealization. Mills follows Onora O'Neill in presenting abstraction as a matter of bracketing predicates that are true of the matter under discussion rather than explicitly denying them (O'Neill 1996, 41). O'Neill and Mills both say that abstraction is indispensable in political philosophy but that idealization is dangerous. In response, Theresa Tobin and I argue that O'Neill and Mills exaggerate the significance of this distinction (Tobin and Jaggard 2013, 403). We think that abstraction and idealization can both sometimes provide useful simplification and focus in political philosophy and that indeed bracketing diversity and inequality can be just as misleading and politically dangerous as denying them if bracketing diverts philosophical attention away from areas where it should focus.<sup>4</sup> Another line of discussion equates ideal theory with reliance on counterfactual thought experiments, not only contracts made in states of nature but also fat men blocking the mouths of caves or under threat of being pushed from bridges in order to stop

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<sup>3</sup> This is reminiscent of Marx's description of the Paris Commune, about which he wrote, “They have no ready-made utopias to introduce *par décret du peuple*. . . . They have no ideals to realize, but to set free the elements of the new society with which old collapsing bourgeois society itself is pregnant. (Marx 1871).

<sup>4</sup> For instance, Angela Harris (1990) has argued that feminist theory is not exempted from the charge of racism if it simply mentions women of color in passing.

approaching trains from killing multiple people improbably tied to the track. However, philosophical reasoning is like legal reasoning in that it often depends on arguments from analogy, and there is no principled reason to avoid analogies that are fictional so long as we remember that their evidential value is likely to be quite limited. The limits result not only from the fact that analogous cases always have disanalogies that may undermine the moral relevance or plausibility of the argument but also from the fact that fictional thought experiments are typically stripped of contextual features that might have moral relevance.

Elizabeth Anderson provides a more useful way of distinguishing between ideal and non-ideal theory. She asserts that, although all political philosophies offer normative ideals, the epistemic status of these differs in ideal and non-ideal theory. In ideal theory, moral and political ideals are offered as fixed standards of assessment for all societies, whereas in non-ideal theory, ideals function as provisional hypotheses posed as possible solutions to specific real-world problems (Anderson 2010, 6).

Non-ideal theory conceived in this way has different aims from ideal theory, so it relies on different methods. Rather than reflecting on what Rawls calls the nature and aims of a perfectly just society, Young writes that the critical theorist reflects “on existing social relations and processes to identify what we experience as valuable in them, but as present only intermittently, partially, or potentially” (Young 2000, 10). Non-ideal theory requires careful thought about existing injustices, including empirical investigation of their underlying causes. This sort of reflection, simultaneously normative and empirical, may enable us to conceptualize new types of injustice, develop new strategies for addressing these, and articulate new political ideals. As Anderson puts it, we begin with an “admittedly inchoate starting point” and undertake “detailed empirical investigation” in order to move toward “a definitive diagnosis and evaluation” (Anderson 2010, 3).

Non-ideal theorists reject Rawls’s claim that clarifying “the nature and aims of a perfectly just society” provides “the only basis for the systematic grasp” of the more “pressing and urgent problems” of injustice that we face in everyday life (Rawls 1971, 9). Instead, they agree with Anderson who writes, “Knowledge of the better does not require knowledge of the best. Figuring out how to address a just claim on our conduct now does not require knowing what system of principles of conduct would settle all possible claims on our conduct in all possible worlds or in the best of all possible worlds” (2010, 3).

Non-ideal theory contrasts with ideal theory both in its mission and its methods. It does not take its mission to be the design of a universal ideal applicable in most circumstances of justice. Instead, it aims to develop ideals that are empirically informed and context-specific and whose status is provisional and open to revision. In pursuing this mission, non-ideal theory utilizes methods that are

ground up rather than sky down. It begins with empirically informed reflection on daily experiences of injustice, and its ideals are ultimately strategies for addressing these injustices. The adequacy of these strategies is tested in real-world experience.

Reconceptualizing the mission and method of political philosophy shifts the locus of the moral and epistemic authority to define what is just. In ideal theory, the main moral and epistemic authority belongs to the philosophers who stipulate the ideal. In non-ideal theory, by contrast, more people work together to develop new conceptions of justice and share the moral and epistemic authority among them. The ultimate moral and epistemic authority for defining justice belongs to those people who must live under the new ideals. Unfortunately, as we shall see, those people often disagree with each other.

In broad outline, I endorse this non-ideal methodological approach to thinking about justice. However, non-ideal theory is a very broad category and the devil is in the details. The rest of this paper considers how some challenging difficulties might be addressed.

## **5. Challenges for Doing Non-ideal Theory in the Unjust Meantime**

Philosophers doing non-ideal theory are advised to begin our thinking about justice with “a diagnosis of injustices in our actual world, rather than from a picture of an ideal world” (Anderson 2010, 3). However, the real world is full of injustices, and people have very different ideas as to what they are and how they should be diagnosed. Not everyone views as unjust the absence of universal health care or abortion rights or public childcare or minimum wage. Moreover, people are troubled by different aspects of what might be regarded as the same problem. Should we be more troubled by sexual assault on college campuses or by false accusations of assault? By police brutality or street crime? With which problems should we begin our thinking and which descriptions of them should we accept?

People’s disagreements about real world injustices tend not to be idiosyncratic; instead, they are typically linked with systematic differences in their experiences, including their interactions with each other. People who interact frequently tend to share a “reality bias,” or a convergence in their understandings of the world (Anderson 2012b, 169–170). However, interactions occur in the contexts of differing social positions, and the perspectives of those who are less powerful tend to be very different from the perspectives of those who wield power. Marx described how nineteenth century employers and workers experienced capitalist society as heaven or hell, respectively (Marx 1967, 176 and 645). In 1852, Frederick Douglass famously asked, “What to the Slave is the Fourth of July?” For those still enslaved in the United States at that time, it did not mark a day of independence. Different perspectives on social justice often do not have equal public credibility; some are more widely accepted than others, and the ideas that are more widely

accepted are usually those endorsed by more powerful elites. The varying perspectives often do not compete on a level playing field; people who are more powerful are better able to promote their points of view by influencing institutions such as education, research funding, and media and sometimes through direct suppression and censorship. Nevertheless, oppositional systems of ideas are often nourished among subordinated populations and, when circumstances permit, they are available as a moral resource for challenging dominant perspectives.

Standpoint theorists argue that the perspectives on social reality and injustice available from below are not only different from the perspectives available from above; in many ways they are more trustworthy (Hartsock 1983; Harding 1998; Wylie 2003). Anderson cites Dewey in support of the view that shared reality bias disproportionately affects those with more social power. Dewey observed that the powerful not only display the self-serving bias that afflicts everyone; in addition, they tend to be unaware of the needs and interests of the less powerful and to have an arrogant perspective that makes them “liable to misread challenges from below as signs of vice—of insubordination and insolence, irresponsibility, laziness, and so forth” (Anderson 2014, 8). Many other authors have written of the arrogant perceptions of those in power, including Fanon (1967), Frye (1983), and Medina (2012).

The term “epistemic injustice” has recently become popular among philosophers, due primarily to the work of Miranda Fricker (2007). Fricker uses the term to refer to situations when reasoning processes are influenced by social power in ways that arbitrarily advantage or disadvantage some participants. She identifies two kinds of epistemic injustice. Testimonial injustice occurs when a speaker’s credibility is unjustly devalued because of prejudice on the part of listeners. Listeners who are prejudiced may rationalize disbelieving a particular speaker by asserting that she is ignorant, superstitious, hysterical, or suffering from adaptive preferences. The other side of testimonial injustice is giving a speaker more credence than his epistemic credentials warrant.<sup>5</sup> Hermeneutic injustice occurs when the available language is unable to articulate people’s experience of oppression. The concept of epistemic injustice has resonated widely among philosophers, and some have gone far beyond Fricker in describing epistemic injustices such as epistemic silencing, smothering, gaslighting, and violence (Dotson 2011; Pohlhaus 2017; Kidd, Medina, and Pohlhaus 2017).

When controversy and conflict arise in liberal democracies, it is common to place epistemic trust in the so-called court of public opinion or the free marketplace of ideas. However, systematic power asymmetries bring into question the

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<sup>5</sup> Fricker does not consider this to be testimonial injustice (2007, 19) but others do (Medina 2012).

applicability of such metaphors. The real world is quite unlike a courtroom and ideas do not contend at all freely within it. Instead, we have seen that real-world discussion is typically deformed by systematic biases and dominant ideologies. In the unjust meantime, how can we begin thinking well about justice?

## **6. Some Strategies for Improving Individuals' Thinking about Justice**

Western philosophers have long reflected on the mutually interactive relations between power and knowledge. Over the past several decades, some philosophers have proposed strategies for addressing various kinds of epistemic bias and injustice.

With regard to testimonial injustice, it is not always unjust to proportion the amount of credence we accord to different speakers; to the contrary, it is usually wise. There are legitimate epistemic reasons for treating one speaker's testimony with skepticism and another's with more respect. Awarding differential credence is unjust only if a speaker is denied the credibility that she is properly due or given more credibility than her credentials warrant. Antiracist and feminist philosophers and activists have proposed several strategies for giving due consideration to individuals from groups whose perspectives are often disregarded. For instance, Laurence Thomas advocates "moral deference" to those with direct experience of oppression (Thomas 1992–1993). Elsewhere, I have described many complementary strategies developed in feminist activist groups in 1970s and 1980s (Jaggar 1995). All are designed to take into account the diversity and inequality of different speakers. More recently, Fricker has advocated epistemic justice as a virtue that we "can, and should, aim for in practice" (2007, 98–99).

Hermeneutic injustice has been discussed extensively by feminist activists and philosophers ever since the late 1960s, although not under this name. One chapter of Betty Friedan's classic *The Feminine Mystique* was titled "The Problem That Has No Name" (Friedan 1963). One famous method developed for addressing hermeneutic injustice was consciousness-raising, which consisted in small groups of women meeting to share first-hand experiences usually regarded as private or trivial. Listeners were expected to be "nonjudgmental," although questions to clarify or stimulate reflection were encouraged. The practice of consciousness-raising helped group members to recognize and name many oppressive patterns of behavior. The vocabulary of gender justice dating from the 1970s includes "sexism;" "sexual harassment;" "the double day;" "sexual objectification;" "heterosexism;" "the male gaze;" "marital, acquaintance, and date rape;" "care work;" "eating disorder;" "stalking;" "hostile environment;" "displaced homemaker;" "comparable worth;" and "feminization of poverty."

In the last three decades of the twentieth century, feminists created epistemic communities in multiple locations and on multiple scales. They included

women's and feminist meetings, retreats, restaurants, coffee/tea shops and bookshops, conferences, journals, and the new discipline of gender and women's studies. In the 1990s, such spaces were theorized as subaltern counterpublics, "parallel discursive arenas where members of subordinated social groups invent and circulate counterdiscourses to formulate oppositional interpretations of their identities, interests, and needs" (Fraser 1990, 67; see also Jaggar 1998). Additional concepts for capturing gender injustice continue to be forged within similar crucibles: more recent terminology includes "hegemonic masculinity," "heteronormativity," "implicit bias," "mansplaining," "microaggression," and "slut shaming." Today, a mushrooming literature, in philosophy and elsewhere, addresses various epistemic biases caused by things like prejudice and stereotyping, and academic institutions have a range of "best practices" to counteract bias in admissions, classrooms, and hiring

Many of these strategies are very helpful for thinking about justice in the unjust meantime. If they focus exclusively on interpersonal interactions, however, they fail to address the fact that epistemic violence and injustice do not occur only or even primarily at the interpersonal level. Unjust interpersonal interactions are typically rooted in unjust systems or structures. For example, most testimonial injustice affects individuals who are members of demographic groups that are either overly privileged or systematically disadvantaged. Particular interactions may conform to standards of testimonial justice, but when they occur between individuals who have had systematically different opportunities to acquire epistemic credentials, they rest on deeper structures of injustice. In such typical cases, testimonial injustice should not be construed merely as a self-contained or one-off episode; instead, it is a symptom of underlying structural injustice. Similarly, hermeneutic injustice is structural whenever it consists in a dominant group's inability or even refusal to understand concepts designed to express the experiences of subordinated groups. Antibias strategies are useful for helping counteract epistemic injustice in particular situations, but they do little to remedy underlying structural injustices. Anderson puts the point well:

It is not wrong to promote practices of individual testimonial and hermeneutical justice. . . . Such individual virtues can help correct epistemic injustices. But in the face of massive structural injustice, individual epistemic virtue plays a comparable role to the practice of individual charity in the context of massive structural poverty. Just as it would be better and more effective to redesign economic institutions so as to prevent mass poverty in the first place, it would be better to reconfigure epistemic institutions so as to prevent epistemic injustice from arising. Structural injustices call for structural remedies. (2012b, 171).

Biased systems of ideas remain tenacious both because they are promoted by powerful forces and also because they are embedded in many taken-for-granted practices of daily life. The highly segregated and unequal structure of many US public school systems means that African American children have lower test scores, and when this fact is taken in isolation from its structural context, it may be taken as evidence that African American children have less scholarly aptitude than white children. How can structural bias be challenged in situations where people—especially those in power—feel little urgency to reconsider established norms?

### **7. Thinking in and about Structural Epistemic Injustice**

Those who rule are liable to conflate their own power with moral authority. Anderson writes that “people are prone to confuse their own desires with the right in rough proportion to their power” (Anderson 2014, 8). In order to induce the powerful to reexamine self-serving and entrenched moral norms, she argues that contentious politics are often necessary. Contentious politics range along a spectrum from pure moral argument at one end to forms of violence on the other (Anderson 2014, 9). They disrupt habitual ways of thinking and living and force people to engage seriously with new proposals for reorganizing social life. In Anderson’s view, “contentious politics is a major engine of social progress” (Anderson 2014, 14).

One strategy for waging contentious politics is creating a social movement. Anderson defines social movements as sustained campaigns of claim making, “using repeated performances that advertise the claim, based on organizations, networks, traditions, and solidarities that sustain these activities” (Anderson 2014, 10; Tilly and Tarrow 2006, 111). She describes social movements as “one of the most powerful social practices ever developed for the peaceful transformation of moral consciousness” (2014, 7). She presents them as efforts to correct the biases that are embedded in established institutions and to reshape the moral thinking of those in power. Using the case study of the movement to abolish slavery in the British Empire, launched in 1787, Anderson describes many tactics, including petitions, logos, mailing lists, public testimony, consumer boycotts, and report cards on representatives (Anderson 2014, 11). Through these and other tactics, the movement not only achieved the political success of abolishing slavery in the British Empire; it also transformed the general population’s conception of justice.

Feminist movements for gender justice have been active at least since the nineteenth century. A familiar example is the British movement for women’s suffrage, which adopted many of the same tactics as the movement to abolish slavery, though the British suffragists were also driven eventually to what many regarded as violent or even terrorist tactics, such as window breaking and mailbox

bombing. Both abolitionism and the women's suffrage movement succeeded in bringing about revolutions in popular conceptions of justice, even though both remain incomplete. In our own time, the Black Lives Matter movement offers a systematic perspective on structural racism especially as manifested in the state institutions of Canada and the United States.<sup>6</sup>

Social movements exist on global as well as national levels. Both the antislavery movement and the campaign for women's suffrage soon became transnational. The pre-World War I London marches for suffrage included representatives from many British colonies, dominions, and protectorates, including India. US activist Alice Paul trained with British suffragists and later led the US campaigns for women's suffrage and the Equal Rights Amendment to the US Constitution. Today, a global public sphere exists, and the possibilities for transnational organizing constantly increase with easier travel and better communications, including the internet. In the 1980s and 1990s, a global feminist movement successfully organized around the slogan, "Women's rights are human rights." One notable success of this movement was its influence on the 1993 *Vienna Declaration and Programme of Action*, which included a formal declaration of women's rights as human rights and violence against women as a human rights violation (United Nations General Assembly 1993).<sup>7</sup> In 2011, "slut walks" erupted all over the world as responses to sexual violence against women. Currently the #MeToo movement is enjoying huge success in creating communities of survivors who together are raising popular awareness of the pervasiveness of sexual harassment and violence and leading efforts to reform social practices at many levels and in many countries.

The demands of social movements typically evolve. For instance, the transnational feminist sexual and reproductive health and rights movement (SRHR) has gone through considerable change over the past two decades. At the 1994 International Conference on Population and Development, pressure from this movement resulted in the "Cairo Consensus," with governments agreeing that, in order to stabilize population growth and attain sustainable development, it was necessary for women to have equal access to information, education, and employment, as well as access to integrated health services and respect for their

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<sup>6</sup> <https://blacklivesmatter.com/about/what-we-believe/> (Accessed 13 August, 2018).

<sup>7</sup> Some transnational movements address particular national governments, although not always the government of those protesting; some address global institutions such as the United Nations or the WTO. In March, 2015, the United Nations responded to the efforts of the transnational LGBTQ movement by announcing that it would recognize marriage equality among UN workers, even if same-sex marriage were not recognized in their countries.



sexual and reproductive choices. For the first time, unsafe abortion was seen as a major public health problem. Following up in 1995, the Beijing Platform for Action called on governments to consider reviewing laws that punished women who had undergone illegal abortions. Since 2010, new issues placed on the agenda of the SRHR include the violence and discrimination faced by people of diverse sexual orientation and gender identities (SOGI); the particular service needs and reproductive rights of women with HIV; the discrimination and violence faced by sex workers; and the claims of indigenous women to have access to services, information, and education appropriate to their cultures and in their languages. Even more recently, an openly sex-positive approach has been able to emerge, and since 2012, sexual rights have been pressed in several recent UN Conferences in Bali, Montevideo, Bangkok, and Addis Ababa (Garita 2014).

Social movements advocate alternatives to dominant conceptions of justice, and they pressure the powerful to take those alternatives seriously. Their goal is to undermine the moral authority of the existing order, and their disruptive tactics are designed to push elites to reconsider dominant ways of thinking. By changing consciousness, they aim to move toward justice.

## 8. Recognizing Justice

Unfortunately, not all social movements are progressive. In Europe and the US, we have recently seen a distressing surge in ethno-nationalist movements, which target vulnerable groups, such as religious or ethnic minorities, immigrants, and LGBTQ\* people, or seek to take away existing rights, such as abortion. How can we know which social movements promote justice, especially when they use slogans that seem to appeal to human rights, such as the “right to work” and especially the “right to life”? And when change occurs, how can we know that society has moved in the direction of justice rather than simply established another *modus vivendi* that is possibly even more unjust?

For Anderson, as a pragmatist, this question is answered by whether or not the new way of living passes the test of experience. She offers examples of various social experiments in the egalitarian tradition, some of which she says have failed while others have succeeded. She thinks anarchism doesn’t work because it is too optimistic about human nature (2012a,10), that “various types of communal living have been repeatedly tried and repeatedly failed” while “comprehensive centralized state-managed economies have been disastrous” (2012a, 7). However, she asserts, “Other experiments have been highly successful—democracy, social insurance, universal education, human rights” (2012a,7). She describes the abolition of slavery as a successful “experiment in living according to the principle of free labor” (2014,7).

The results of the tests of experience are often debatable, however, because the success or failure of particular social experiments is rarely taken to provide a conclusive test of the feasibility or normative adequacy of the ideals inspiring those experiments. Instead, people sympathetic to social experiments that appear to have failed typically offer extrinsic explanations. Anarchists attribute the 1939 defeat of Spanish anarchism by Franco not to the unworkability of anarchism, which indeed worked well in Spain during the 1920s and 1930s, but rather to its betrayal by the Spanish Communist Party, supported and directed by the Soviet Union. The prevalence of strongman rule in many African countries in the immediate postcolonial period does not mean that the ideal of democracy has been proved infeasible for Africa; many external factors currently undermine the establishment of democratic African institutions. People who favor communal living say that the development of new tools for promoting harmonious interpersonal relationships are making this way of living increasingly feasible, and experiments in living this way certainly are not ended.

The success or failure of an experiment in living is not determined by its longevity. Underlying her appeal to the test of experience, Anderson seems to rely on a version of the liberal principle of legitimacy, according to which a system is legitimate when it has established moral authority in the eyes of those who live within it. She writes, “The ultimate test of moral progress must lie in critical reflection on the results of a social movement, in the experiences of those living under the new norms that an effective social movement establishes” (2014,15). In practice, of course, it is far from easy to determine how far those who live within a system have consented to it freely, especially in the light of what we know about adaptive preferences, hegemonic ideology, and government propaganda, not to mention the personal costs of resistance. Nevertheless, the liberal principle of legitimacy can guide our investigation. For example, slavery and male dominance have persisted for millennia, but this is not enough to count these experiments in living as successful. The persistent histories of revolt and resistance against these social orders, as well as the intense repression that characterizes them, give us every reason to believe that these ways of living lack moral authority in the eyes of many whom they govern. The principle gives us a direction for investigation through conceptual argumentation combined with empirical investigation.

## **9. Moving toward Justice in the Unjust Meantime**

The non-ideal methodological approach sketched above offers a partial account of how we can promote structural justice and assess the progress we have made toward it. On this view, assessing the justice of proposed social ideals requires utilizing methods of investigation that are intersubjective, democratic, and experimental. Philosophical investigation must move out of the armchair and utilize

multidisciplinary methods that draw on empirical information as well as conceptual argument. Our work should not aim to produce ideals capable of serving as permanent standards of assessment for all societies; instead, like the results of scientific investigations, the ideals we produce should be taken as provisional, subject to change as our circumstances change.

The work of political scientists Catherine Eschle and Bice Maiguashca offers one illustration of this non-ideal methodological approach to thinking about global gender justice (Eschle and Maiguashca 2010). Eschle and Maiguashca studied feminist involvement at the World Social Forum in 2001–2005. They began by examining the panoply of concrete proposals for social change advocated by feminist activists from around the world in response to directly experienced injustice, and they used reflexive and dialogical methods to distill five ethical principles from these proposals (2010, 12–14). They argue that these five principles, taken together, amount to an ideal of gender justice that addresses all human beings and calls for another world (2010, 115).

Stated baldly, the five principles that Eschle and Maiguashca identify are broad and hardly novel. They are economic equality, democracy, respect for the environment, bodily integrity, and peace. What makes the call for these principles any different from another mistily glimpsed Paradise Island or a bumper sticker that says “Visualize World Peace”? The difference is in the methods by which the ideals were produced and the epistemic status assigned them. They were formulated through a bottom-up democratic process, and they are situated in, and must be interpreted in, the light of particular gendered life experiences. For example, economic equality in this context is interpreted to mean eradicating gender-specific oppressions that disadvantage women relative to men, revaluing and redistributing the burdens of care work, and redistributing economic resources in order to address basic needs such as water and leisure—described in some versions as human rights (Eschle and Maiguashca 2010, 116–117). Furthermore, the principles are not taken to be incontestable. Instead, they seek to “woo the consent” of everyone through a moral language that is understandable to others and therefore draws on widely recognized traditions of thought (Eschle and Maiguashca 2010, 114, citing Benhabib 1992). Unlike Paradise Islands, the principles do not propose an ideal of global justice designed for all time and places, situated *sub specie aeternitatis* (Rawls 1971, 587). Instead, they are taken to be one particular stage of a work perennially in progress. For example, important components of gender justice today probably include access to contraception and abortion, literacy, official documentation, cell phones, internet access, and transgender health care. Most of these could not have been predicted a hundred years ago.

Ultimately, we can learn how far our ideals provide workable and normatively acceptable possibilities for justice only by trying to live them in the real

world. When we find that proposed ideals do not work for everyone, we must be ready to try to live differently. In other words, we must engage in politics that are not only strategic but also prefigurative. From a non-ideal methodological perspective, part of thinking philosophically about global gender justice is working with nonphilosophers to bring it about.

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