

Justice beyond Desires?

Studies in Social, Political, and Legal Philosophy

Series Editor: James P. Sterba, University of Notre Dame

This series analyzes and evaluates critically the major political, social, and legal ideals, institutions, and practices of our time. The analysis may be historical or problem-centered; the evaluation may focus on theoretical underpinnings or practical implications. Among the recent titles in the series are:

Can Ethics Provide Answers? And Other Essays in Moral Philosophy

by James Rachels, University of Alabama at Birmingham

Character and Culture

by Lester H. Hunt, University of Wisconsin–Madison

Same Sex: Debating the Ethics, Science, and Culture of Homosexuality

edited by John Corvino, University of Texas at Austin

Approximate Justice: Studies in Non-Ideal Theory

by George Sher, Rice University

Living in Integrity: A Global Ethic to Restore a Fragmented Earth

by Laura Westra, University of Windsor

Racist Symbols and Reparations: Philosophical Reflections on Vestiges of the American Civil War

by George Schedler, Southern Illinois University

Necessary Goods: Our Responsibilities to Meet Others' Needs

edited by Gillian Brock, University of Auckland, New Zealand

The Business of Consumption: Environmental Ethics and the Global Economy

edited by Laura Westra, University of Windsor, and Patricia H. Werhane, University of Virginia

Child versus Childmaker: Present Duties and Future Persons in Ethics and the Law

by Melinda A. Roberts, College of New Jersey

Gewirth: Critical Essays on Action, Rationality, and Community

edited by Michael Boylan

The Idea of a Political Liberalism: Essays on Rawls

edited by Victoria Davion and Clark Wolf

Self-Management and the Crisis of Socialism: The Rose in the Fist of the Present

by Michael W. Howard, University of Maine

The Idea of a Political Liberalism

Essays on Rawls

EDITED BY

VICTORIA DAVION AND CLARK WOLF

ROWMAN & LITTLEFIELD PUBLISHERS, INC.
Lanham • Boulder • New York • Oxford

ROWMAN & LITTLEFIELD PUBLISHERS, INC.

Published in the United States of America
by Rowman & Littlefield Publishers, Inc.
4720 Boston Way, Lanham, Maryland 20706
<http://www.rowmanlittlefield.com>

12 Hid's Copse Road
Cumnor Hill, Oxford OX2 9JJ, England

Copyright © 2000 by Rowman & Littlefield Publishers, Inc.
Chapter 9 © 2000 Claudia Card
Chapter 11 © 2000 Bernard P. Dauenhauer
Chapter 14 © 2000 Christoph Fehige

An earlier version of chapter 3, "Rawls's Neglected Children" by Samantha Brennan and Robert Noggle appeared as "John Rawls's Children" in *The Philosopher's Child* (Rochester: © University of Rochester, 1998). Reprinted with the permission of the publisher and authors.

An earlier version of chapter 7, "Reflective Equilibrium and Justice as Political" by Norman Daniels, appeared in *Justice and Justification* (New York: © Cambridge University Press, 1996). Reprinted with permission of Cambridge University Press.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of the publisher.

British Library Cataloguing in Publication Information Available

Library of Congress Cataloging-in-Publication Data

The idea of a political liberalism : essays on Rawls / edited by
Victoria Davion and Clark Wolf.
p. cm.—(Studies in social, political, and legal
philosophy)
Includes bibliographical references and index
ISBN 0-8476-8793-7 (cloth : alk. paper).—ISBN 0-8476-8794-5
(paper : alk. paper)
1. Liberalism. 2. Rawls, John, 1921—Contributions in political
science. I. Davion, Victoria, 1960— . II. Wolf, Clark, 1962— .
III. Series.

JC574.I33 2000
320.51—dc21

99-36523
CIP

Printed in the United States of America

ⓈTM The paper used in this publication meets the minimum requirements of American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI/NISO Z39.48-1992.

CONTENTS

Introduction: From Comprehensive Justice to Political Liberalism, <i>Victoria Davion and Clark Wolf</i>	1
Part 2 Reasonable versus Simple Pluralism and the Legitimacy of the State	
Chapter 1 John Rawls and the Political Coercion of Unreasonable People, <i>Marilyn Friedman</i>	16
Chapter 2 Rawls and Religion, <i>James P. Sterba</i>	34
Chapter 3 Rawls's Neglected Childhood: Reflections on the Original Position, Stability, and the Child's Sense of Justice, <i>Samantha Brennan and Robert Noggle</i>	46
Part 2 Political Liberalism and International Justice	
Chapter 4 Justice, Legitimacy, and Human Rights, <i>Allen Buchanan</i>	73
Chapter 5 Egalitarianism and a Global Resources Tax: Pogge on Rawls, <i>Roger Crisp and Dale Jamieson</i>	90
Part 3 Morality and Political Liberalism	
Chapter 6 Fundamental Rights, Reasonable Pluralism, and the Moral Commitments of Liberalism, <i>Clark Wolf</i>	102
Chapter 7 Reflective Equilibrium and Justice as Political, <i>Norman Daniels</i>	127

Part 4 Economics and Entitlements

Chapter 8	Economic Liberties, <i>James W. Nickel</i>	155
Chapter 9	Individual Entitlements in Justice as Fairness, <i>Claudia Card</i>	176

Part 5 Modus Vivendi?

Chapter 10	“Not a Mere Modus Vivendi”: The Bases for Allegiance to the Just State, <i>Claudia Mills</i>	190
Chapter 11	A Good Word for a Modus Vivendi, <i>Bernard P. Dauenhauer</i>	204
Chapter 12	A Mere Modus Vivendi?, <i>Scott Hershovitz</i>	221

Part 6 Justice, Rationality, and Desires

Chapter 13	Rawls versus Utilitarianism in the Light of <i>Political Liberalism</i> , <i>Richard J. Arneson</i>	231
Chapter 14	Justice beyond Desires?, <i>Christoph Fehige</i>	253
	Index	285
	About the Contributors	292

14

JUSTICE BEYOND DESIRES?

Christoph Fehige

Justice, some of us believe, is a matter of fulfilling people's desires. John Rawls disagrees. His justice deals in "primary goods", not in desire fulfillment. I propose to look at a handful of objections that Rawls raises against the desire-based view, and to ask whether they are sound. So we will witness *some* moves concerning *one* question of normative ethics, the question of "the currency of justice".

The chapter begins with thumbnail sketches of the two doctrines in question: of the desire-based view (also known as preference-justice or preferentialism) in section 1, and of Rawls's principles in section 2. Sections 3 to 7 present the controversy.

1. Preference-Justice

1.1 The Basic Idea

What ought to be the case is what people want to be the case, says preference-justice. Preference-justice is based on two claims. First, the good, the right, and the just are determined solely by what is good *for* people, by their benefit, happiness, interests, utility, or welfare. One world cannot be better than another without being better for somebody. This type of claim is known as welfarism. Second, the answer to the question what is good *for* a person must, in the end, reside in that person herself; it is a matter of her *own* preferences (desires, wants, wishes) and their satisfaction. The idea is that by giving her X we benefit her if, and only if, in some suitable subjective sense of these words, she "gets something out of it", and that desire fulfillment *is* the suitable sense.

From those two premisses, preference-justice follows. For if the good is a matter of "good for", and "good for" a matter of preference satisfaction, then the good itself is a matter of preference satisfaction. In other words, preferentialism is welfarism coupled with a specific notion of welfare: welfare as preference satisfaction. In order for something to be good *for* Fritz, that

something must correspond to a wish he has, has had, or will have; and in order to be good simpliciter, it must be related that way to *somebody*.

Views like preferentialism go back a long way. Recall Kant on what morality demands of each of us: other people's "ends", he says, "must [...] be also, as far as possible, *my* ends"¹. Routes that lead, or have been thought to lead, into such doctrines depart from autonomy, universalizability and the Golden Rule, moral sentiments and intuitions, the meaning of the moral words, from sympathy, and from affinities between rationality and morals.

1.2 Some Clarifications

Obviously, not any old notion of preference will do. In order for it to bear the weight they put on its shoulders, preferentialists *craft* a notion of desire—with considerable care. Failure to take this into account can cause confusion, and can lead opponents of preferentialism to criticize and reject a straw man rather than the real thing. Let me mention four important features of the pertinent notions of desire and desire fulfillment, and avert some possible misunderstandings along the way.

Desire and pleasure. We stipulate, following Kant and others, that everybody wants, pro tanto, to spend the time he's conscious as pleasantly as possible. There are, I think, independent reasons to take the concepts of preference and pleasure to be linked in this way, but that is another issue. Suffice it to say that the stipulation saves the preferentialist from having to mention "pleasure and the absence of pain", which no doubt *are* a part of welfare, separately.² It makes sure that desire fulfillment includes that part—the hedonic part. Notice that nothing serious hinges on this stipulation; it is a trivial device to unify our terminology. We could as well do without it and say instead that both preferences and pleasure count.

With the stipulation in place, the fact that some states of affairs that we wished for end up disappointing us is no argument against preferentialism. Such a state of affairs, call it *p*, has satisfied one desire (the desire that *p*—if there really was such a desire, and not just a desire to get pleasure out of *p*), and in that respect it was good; but it has also frustrated another desire (the desire to spend one's conscious time pleasantly), and in that respect, the preferentialist agrees, it was bad. We can also see now why the preferentialist can do justice to the value of, say, pleasant surprises: by being pleasant, they answer a standing desire.

Implicit desires. That a person desires something is not supposed to imply that she desires it consciously; only that, *if* (under proper conditions) she fully represented it to herself, correctly and completely and vividly, she *would* desire it consciously.³ In the sense indicated by this conditional there can be desires that are purely implicit.

We tie welfare and morality to implicit desires because, if we consulted just the explicit ones, we would run into problems. It is, for instance, not clear how many explicit desires we have at all: how often do we go to the trouble of fully representing something? Furthermore, which thoughts find

their way into our consciousness is rather contingent; and those that do are often the petty ones, having to do with waiters, traffic lights, or phone numbers. A notion of welfare should not be at the mercy of trifles, with our deepest concerns playing second fiddle at most. The appeal to implicit preferences—to how we *would* feel about things *if* we thought about them—gets the priorities right.

Intrinsic desires. Words like “desire” or “prefer” are meant to refer, unless otherwise stated, to intrinsic preferences—that is to say, to preferences not for mere means to other ends. One effect of this is that we exclude desires that are derived from false beliefs. If a person desires, say, to fly to Alaska just because she wants to see pineapple plantations and believes she will find them there, then the Alaska desire, doxastically contaminated as it is, has no moral grip on us.

Frustration and satisfaction. If we say that a preference or desire is frustrated or satisfied or fulfilled, we do not imply that the preferrer’s consciousness is affected thereby; only that what he has wished for is the case. Since one can desire states of affairs that have nothing to do with one’s own consciousness, preferentialism differs markedly from hedonism. It does, for instance, respect death-bed promises. You do not just have obligations, as hedonists would have us think, to make the moribund feel good by making him believe that his desire will be fulfilled. You have obligations to fulfill his desires.

1.3 A Restatement

We have come to know the impetus of preferentialism (section 1.1) and begun to explain the relevant notion of preference (1.2). Let me end this sketch with a more orderly presentation of the doctrine.

Preference-justice, as has become clear by now, is not one particular, complete theory of justice; it is the doctrine that any such theory should satisfy certain conditions. More precisely, the preferentialist subscribes to three claims—or, since it might be wiser to define a position by family resemblance, to something very much like them. Here they are.

(1) *Every preference counts.* That is to say, given any preference, its satisfaction would, pro tanto, be a good thing. In William James’s much-quoted words:

“Take any demand, however slight, which any creature, however weak, may make. Ought it not, for its own sole sake, to be satisfied? If not, prove why not. The only possible kind of proof you could adduce would be the exhibition of another creature who should make a demand that ran the other way.”

(2) *Only preferences count.* As William James continues, “The *only* possible reason there can be why any phenomenon ought to exist is that such a phenomenon actually is desired.” It follows that, if we knew a world’s fulfillment profile—i.e., if we had complete information as to who desires what and when and how strongly, and which of these desiderata come true—, then we would have all the facts we need in order to evaluate that world.⁴

(3) *Push-pin can be as good as poetry.*⁵ This slogan is meant to say that, in themselves, differences in the objects of preference make no moral difference. Any two worlds whose fulfillment profiles differ just with respect to the desiderata are equally good.

Condition (3), also known as the “condition of neutrality”, reflects an important aspect of the preferentialist’s view that “good for” is concerned with a subjective magnitude. It is the preferredness that matters, and if it is only preferredness that bestows value on objects in the first place, then it doesn’t matter whether these are poems or games of push-pin (or whatever else). That is part of the preferentialist’s conception of equality: every preference is equal, and of tolerance: *chacun à sa façon*.

What about justice? We have to find the most adequate moral theory that entails claims (1) to (3) or something very similar. For any two fulfillment profiles, the theory will tell us which of the two is better than the other, or that the two of them are equally good. *Just* worlds are worlds with optimal fulfillment profiles; just societies are societies in just worlds; and, to anticipate a Rawlsian term, just “basic structures” of societies are the basic structures of just societies. Feasibility constraints, including those that arise from other people’s denial of preferentialism,⁶ are dealt with by applying the same chain of definitions to constrained feasible sets: just worlds, given what’s feasible, are the worlds with the best fulfillment profiles *of all the feasible worlds*; and so on.

Our sketch doesn’t, and for today’s purposes shouldn’t, state what ought to happen in the case of conflicting preferences. Should the strongest preferences win? Should we satisfy the preferences of those who, all in all, have less preference satisfaction than others? Are there such things as utility functions, and would an adequate principle of aggregation refer to them?

Various answers have been given within preference-based ethics.⁷ Utilitarianism, which asks us to maximize the total amount of preference satisfaction, regardless of its distribution and with no special concern for those who are badly off, is just one of them. Yet the discussion tends to focus on the special case. The step from the rejection of utilitarianism to the rejection of preference-justice, or straight to the acceptance of Rawls-justice, is often hasty, to say the least. Whoever, following Rawls, “rejects the idea of comparing *and maximising* satisfaction in questions of justice”⁸ will have to consider comparing without maximizing before he can close the file on comparing. And while objections to utilitarianism are understandable, it is much harder to see why an adequate morality should, or could, depart from preferentialism.

2. Rawls-Justice

Let us now turn to John Rawls’s theory; I present the briefest of outlines here, and more as we go along. Rawls asks what it is for the “‘basic structure’ of a modern constitutional democracy” to be just. By the “basic structure” he means

“the way in which the major social institutions fit into one system. These institutions assign fundamental rights and duties, and by working together they influence the division of advantages which arise through social cooperation.”⁹

What does, for such a structure, the question of justice amount to? What is it we’re after? A theory of justice, says Rawls, has the practical task of reconciling people whose values differ. However, trying to talk them out of their differences would be hopeless—a situation he calls “the fact of pluralism”. We had better see whether people happen to share at least *some* values and whether these suffice for a consensus on how to run a society.¹⁰

Thus, Rawls turns to values that are already floating around in our political culture. These values, he suggests, can be expressed as follows: the basic structure of society is just if it is of a type that a certain kind of rational person would in a certain hypothetical choice situation opt for. The choice situation he employs for these purposes is the famous “original position”. Prominent among its carefully designed features is a device with a significant preferentialist pedigree: the “veil of ignorance”, i.e. the fact that there are many things the choosers don’t know. Most notably, they don’t know which role they themselves would have to play in the society governed by the principles they choose.¹¹

Rawls then tries to show what type of basic structure would be chosen, and, thus, what type is just. The choosers, he says, would require that the basic structure conform—in other words, the basic structure is just if it conforms—to the following principles, with principle 1 taking priority over principle 2, and 2.a over 2.b:

- “1. Each person has an equal right to a fully adequate scheme of equal basic rights and liberties which is compatible with a similar scheme for all.
2. Social and economic inequalities are to satisfy two conditions.
 - 2.a They must be attached to offices and positions open to all under conditions of fair equality of opportunity; and
 - 2.b they must be to the greatest benefit of the least advantaged members of society.”¹²

As it stands, this criterion of justice doesn’t tell us much, for at crucial points it employs *further* normative concepts. After all, every conception of justice will want to be “fair” and “adequate—the question is, What *is* fair and adequate? Fleshing out the principles, says Rawls,

“requires specifications [...] [that] assign weights to certain of the primary goods[,] and citizens’ fair shares of these goods are specified by an index which uses these weights. The primary goods may be characterized under five headings as follows:

- (a) First, the basic liberties as given by a list, for example: freedom of thought and liberty of conscience; freedom of association; and the freedom defined by the liberty and integrity of the person as well as by

- the rule of law; and finally the political liberties;
- (b) Second, freedom of movement and choice of occupation against a background of diverse opportunities;
 - (c) Third, powers and prerogatives of offices and positions of responsibility, particularly those in the main political and economic institutions;
 - (d) Fourth, income and wealth;
 - (e) Finally, the social bases of self-respect.”

Given Rawls’s principles 1 and 2, and the priorities among and within them, every citizen will “have the same equal basic liberties and enjoy fair equality of opportunity”—see the items under (a) and (b), protected by principle 1. “The only permissible difference among citizens is their share of the primary goods in (c), (d) and (e)”—governed by principle 2. This is, as Rawls calls it, “justice as fairness”.¹³

3. Preference Satisfaction: Too Hard to Specify, and Too Rarely Endorsed?

What reasons does Rawls adduce against preference-justice? We can skip all those objections that are clearly addressed to only some forms of it. To utilitarianism, for instance. It may well be that, unlike utilitarianism and some of its relatives, we should secure, if possible, a minimum level of well-being for everybody, give at least some weight to equality in the distribution, look after those who are worst off, or whatever. But, as noted towards the end of section 1.3, such anti-utilitarian requirements can be, and have been, met *within* preference-based ethics.

The discussion includes some objections, however, which, though put forward by Rawls on special occasions—say, when he criticizes utilitarianism, or a “principle of restricted utility”, or the system of “equal proportionate satisfaction”¹⁴—, have, and may be suspected to be intended to have, a more general ring: the ring of anti-welfarism or anti-preferentialism. Where the general ring is sufficiently obvious, the arguments will simply be treated as general ones.

At times we shall travel within sight of roads that have been traveled before—by welfare-theorists and utilitarians over the ages, by critics of John Rawls’s writings, and, most notably, by Richard Arneson, in his papers on primary goods, distributive subjectivism, and preference formation.

3.1 Definiteness

Rawls says, on various occasions, that he must introduce “primary goods” in order to have any chance of getting “a definite result” out of the “original position” at all.¹⁵

Two brief points at the outset. First, Rawls’s remark assumes that *his* principles *are* blessed with the virtue of definiteness. This is a big assumption,

and we will briefly return to it in section 3.2. Second: if Rawls's remark were true, we could ask whether it doesn't constitute an argument against the "original position" rather than for "primary goods". Rawls's "original position" is quite a baroque construction, with numerous premisses, some of which are decidedly on the vague side. How plausible, and how "definite", is *it*? Has it not lost much of the clarity and intuitive appeal of its preferentialist ancestors?¹⁶

Be this as it may—in the "original position", what problem of definiteness would preferences raise? It is not a problem of definiteness that perhaps the parties just don't want preference satisfaction, or that Rawls has destined them to want other things along with it. (Though at least the latter *is* a problem; see below, section 4.3.) As Rawls seems to see it, the problem of definiteness, or one such problem, is rather that, even to the extent that the parties wanted preference satisfaction, they would just not know enough about the preferences—and preference changes and opportunities of preference changes and possibilities of preference satisfaction—that would come up.

But then why don't they choose a principle of desire fulfillment whose wording and acceptance do not presuppose any of this knowledge? They could rank the logically possible fulfillment profiles and opt for the principle that the best feasible profile ("best" according to the ranking) ought to be brought about. In order to make sure that their choice remains an impartial one, we would of course continue to require, with John Rawls, that they choose a principle that makes no mention of particular individuals, or that was in some other way insensitive to the distribution of identities.¹⁷ And the principle could still characterize the "basic structure" of society: the basic structure ought to be of the type that makes sure, or has the best prospects of making sure, that the best feasible fulfillment profile is realized.

In fact, if the choosers are, as Rawls tells us, means-ends rational with respect to their later yet unknown purposes, a principle of this type is the obvious choice. Such a chooser will either believe an option to be, all things told, the best bet *in view of her future desires*, or she won't choose it. Therefore, *any* choice she makes—no matter how general the issue or how small her knowledge of facts, identities, and desires to come—will be based entirely on considerations of desire fulfillment, and can thus be expressed entirely in those terms.¹⁸

Perhaps Rawls takes preferentialist criteria to lack definiteness in that they are, in a certain sense, *conditional*. After all, there will be, if preferentialism is right, a great number of things that are forbidden as long as they have certain consequences, and permitted as long as they have certain others.

That, however, will hold for any sane conception of morality, including any sane conception of political morality. Pouring water out of your window is fine if nobody gets wet, and not so fine otherwise; driving fast, or a traffic code that permits people to drive fast, is fine if no-one gets hurt, and not so fine otherwise. Et cetera. Furthermore, there is not exactly a dearth of conditional structures in Rawls's own theory. His second principle of justice is

explicitly conditional. And rights and liberties are implicitly conditional; to say that you have a right to something is roughly equivalent to saying: it ought to be the case that, *if* you want (or try) to have (or do or bring about) that something, then you can (or, at any rate, nobody will interfere). Similarly for liberties.¹⁹ Conditionality, then, cannot be the problem.

If conditionality as such does not impugn definiteness, perhaps conditionality *on mental states* does? Probably not. First, because there is nothing particularly indefinite about, say, being in pain or desiring something. Second, conditionality upon mental states is again a feature of *every* sane conception of morality, preferentialist or not; for who wants to say that people's pleasure and pain and preferences do not count at all? Third, mental states are again something we find in Rawls-justice, too. Not only because rights and liberties in general imply an appeal to mental states (see previous paragraph), but also because, even if not all of them did, some of the items on Rawls's list certainly do: the liberty of conscience, for instance, and the integrity of the person. And in rare and memorable moments of Benthamism, Rawls is even prepared to consider freedom from pain as a candidate for a "primary good".²⁰ We may conclude that the reference to mental states, too, is not, at least cannot consistently be, the problem he is driving at.

Something else is enigmatic. There are several preferentialist theories that Rawls criticizes on moral grounds, pointing out in gruesome detail what he believes they would, in certain circumstances, require us to do: hold slaves, persecute minorities, give all our resources to a few enthusiastic astronomers, etc.²¹ Surely the theories can't be that indefinite if they're definite enough for that.

Of course, there may be a usage in which the word "definite" *means* "not couched in terms of satisfied preferences". But if this is the usage, then the statement that we need "primary goods" in order to get a definite result just *means* that we need them in order to get away from preference talk. It doesn't mention a *reason* for getting away from preference talk.

3.2 Verification

Another problem with utility, says Rawls, is that we would "require a workable public interpersonal measure to identify it" and that

"[t]he difficulties with [...] utility on this count are substantial. Uncertainty is likely to increase disputes and mistrust for much the same reason that unclear and ambiguous principles do [...]."

The point now is not that an orrectic criterion, including any interpersonal comparisons it might require, is badly defined,²² but that it is hard to verify. Applying it will therefore be difficult and costly—costly, as the reference to disputes and mistrust reminds us, even from a moral point of view.

But this argument doesn't work. For one thing, many preferences, and strengths of preferences, can be diagnosed beyond reasonable doubt. Second,

it is, to say the least, an open question whether the remaining, difficult cases are more numerous or more difficult than those involved in talk of “primary goods”, or of “liberties”, or of “fully adequate schemes” of these.²³ For what is included in a fully adequate scheme (and with what weight), and what is not, and how do we—consensually, without “disputes and mistrust”—find out? And, as was mentioned in section 3.1, at least some of Rawls’s “primary goods” have to do with mental states, too, and are thus, with respect to verification, in the same boat as preferences. Rawls shouldn’t include freedom from pain (and the like) among his “primary goods” to make them look adequate while blaming *others* who talk of freedom from pain (and the like) for dealing in goods that are hard to observe.

Third, even if Rawlsian “primary goods” were more manageable than utility, we could work with two levels of principles. We could consistently be, on the one hand, preferentialists when doing political philosophy and when wondering what the laws ought to achieve (and why), and, on the other hand, write and apply laws that do not even mention preferences. Notoriously, there may be sound general reasons for a two-level structure of this type.²⁴ And if everybody knows about it and nobody is cheated, it is unobjectionable.

Fourth, remember that Rawls is a “publicist”; that is to say, he insists that the principles of justice, and the reasoning that led to them, be publicly known. This request is hardly compatible with the objection we are currently considering, viz. an objection from application costs. For the general form of such an objection is this: “Let us grant, for the sake of the argument, that principle X correctly *characterizes* the good or the right. But its public use wouldn’t *promote* the good or the right.”²⁵ Now, a publicist would not want us to hide *that* argument from the public either. However, if we don’t, and if therefore the public knows that X correctly characterizes the good or the right, then how can its members fail to base their moral reasoning, in political as well as other matters, at bottom, on X? Given X’s alleged practical weakness, we might hope and suggest that, for quick reference, they adopt some other principles. But once they see that X is correct we cannot stop them from judging things, more or less directly, in the light of X.

Fifth, last, and most important: verification problems need verification answers. As Rawls puts it very aptly, in another context, “It is irrational to advance one end rather than another simply because it can be more accurately estimated.”²⁶ Absolutely. So we cannot give moral authority to “primary goods” just because sometimes the impact things have on desire fulfillment is hard to figure out. Compare this to other areas of life: we do not get into a habit of going by hearsay just because sometimes the truth is hard to figure out.

In the preferentialist’s eyes, relying on an index of “primary goods” is arbitrary unless there is a warranted hope for the procedure to approximate the results that are best in terms of desire fulfillment. Without that hope, there is no reason to believe that the distribution of “primary goods” is a matter of justice. Having sometimes to guess what will best serve a principle is one

thing. Having the guesswork replace the principle is another.

3.3 Popularity

Rawls also objects that preference-justice would not be able to gain large-scale support. This, he thinks, is bad news for a political philosophy.²⁷

However, Rawls has simply not shown, or come anywhere near showing, that preferentialism's prospects of getting support *are* worse than those of *his* principles.²⁸ And, more importantly, let us be careful not to overrate general endorsement. It would be nice for a theory of justice to have support, but there is no straightforward argument from lack of support to lack of adequacy. After all, majorities can be dumb and immoral. We shouldn't try to humor them when thinking about norms—only when marketing our norms.

This is not to say that we may disregard other people, whose views and interests may diverge radically from ours. Indeed, we mustn't. Part of our values is that we count everybody for one, nobody for more than one.²⁹ But it is one thing to have democratic values, and quite another to be democratic about what values one has.

Neither is it to say that considerations of stability, intimately connected with those of support, should play no role in our moral practice. They had better play a large role; they too had better make us, to some extent, tolerant. An armed rebellion, for instance, involves pain and inconvenience on both sides, which is itself a large moral drawback; it follows that we ought hardly ever to pursue our moral goals in ways that would stir up those who don't share them. This is one more type of reason, though less direct and noble than the one we embraced in the previous paragraph, why we ought not to ride rough-shod over people with a different view. But, once again, it only means that we have moral reasons to give others a say; not that we have reasons to give them a moral say.

The picture that emerges—the picture of diversity, support, and tolerance—is this. The fact of moral pluralism resembles the fact of bad weather. Bad weather ought to influence our actions, and some trips it ought to make us cancel. But it needn't impair the fact that we desire these trips, and that we *would* go on a picnic if the weather were *not* as bad as it is.

The same goes for justice. It is a sufficient response to the "fact of pluralism" that our fellow-citizens have *moral* standing. We take them into account, especially their interests, no matter how different from ours; doing so will often mean giving in to them, making moral sacrifices. However, giving them *meta-ethical* standing—polling them as to what the norms of political justice themselves should look like—is implausible. It is also unnecessary and dangerous. The expression "public reason" may not qualify as an oxymoron, but it's not far off.³⁰ What is public need not be reason (and often isn't), and what is reason need not be public (and often isn't). The quest for support should shape our actions; it should not shape our values.

Two objections to these remarks are worth addressing. One of them says: our observation that majorities can commit moral howlers might miss the

point, since Rawls aims at a consensus among *reasonable* people—doesn't that make all the difference?³¹

It does make a difference: it shifts the problem elsewhere. For whom do we count as reasonable? If "reasonable" is supposed to perform the job of fending off the immoral, a whole lot of moral substance will have to be packed into it in the first place. And the more moral substance we pack into "reasonable", the less clear it is that reasonable people will reject preferentialism. To say that they will is then no longer an argument against preferentialism; only a roundabout way of claiming, not showing, that preferentialism is wrong.

The second objection says that, if society is to be liberal,

"the state can no more act to maximize the fulfillment of citizens' rational preferences, or wants (as in utilitarianism), [...] or to advance human excellence, or the values of perfection (as in perfectionism), than it can act to advance Catholicism or Protestantism, or any other religion. None of these views of the meaning, value, and purpose of human life, as specified by the corresponding comprehensive religious or philosophical conceptions of the good, are affirmed by citizens generally, and so the pursuit of any of them through basic institutions gives political society a sectarian character."³²

But one of the items in the first sentence is, other than the sentence claims, *not* like the others. The objection holds that, if preferentialism had few followers, then ipso facto a society based on preferentialist principles would be illiberal. This is wrong. Preferentialism is a paradigm of liberalism. It is, recall the remarks from section 1.3, "*chacun à sa façon*"—in its purest form. No other doctrine takes the idea of neutrality, the idea that one woman's meat is another woman's poison, as seriously as preference-justice does. If preferentialism lacked support, this would show, not that preferentialism is illiberal, but that liberalism lacks support.

4. Priorities—and a Glimpse of the Background

4.1 Who Rules the Roost?

Rawls complains that for the preferentialist many important things will have priority under some circumstances only and that these circumstances needn't always hold. It is easy to think of scenarios, though perhaps less easy to think of realistic ones, in which the preferentialist would want to violate, say, somebody's "basic liberties" in order to optimize preference satisfaction. Thus, preference-justice might fail to protect what ought to be protected.³³

Remarks like these, however, *assume* anti-preferentialism; they do not *support* it. To what degree certain liberties are accountable to the standard of preference satisfaction is the very issue between the preferentialist and the Rawlsian. The issue is hardly settled by *announcing* that the preferentialist got it wrong. The preferentialist could announce, vice versa, that the allegedly overriding importance of certain particular items is an error, or at the very

least a mystery, in Rawls's principles: Rawls runs the risk of securing what isn't worth securing, and of sacrificing what ought to be secured.³⁴

Furthermore, it is wrong to say that the preferentialist *relies* on certain facts to validate, in conjunction with the preferentialist values, the "basic liberties" or some such items.³⁵ He does not. While the preferentialist happens to think that frequently, given his values, the facts *will* validate the "liberties", he also thinks that nothing hinges on this. Whenever they don't validate them, this does not embarrass him. It simply reflects the moral authority of preference satisfaction over particular "goods". Of course the director should take over when the deputies would go astray.

Perhaps this is also the right place to look at Rawls's concession that the index of "primary goods" is flexible. It needn't be fixed once and for all, he says, but can be formed in the course of time³⁶—how does that sound to the preferentialist? Not very comforting. The more protean the index, the less Rawls-justice tells us. Rawls's readers and the parties in the "original position" would have to buy a pig in a poke. The *creatio continua* would be fine if it traced desire fulfillment, but that, Rawls explains in no uncertain terms, is not intended.³⁷ So there's little hope for the preferences. That the index changes is at best useless, at worst frightening, if it doesn't change in the right way.

4.2 Either—Or

At times the issue—desire fulfillment or "primary goods"?—looks not so much like a dissent between Rawls and the preferentialist as a dissent *in Rawls*: is his theory, with respect to the pecking-order between preferences and "primary goods", consistent? The question has already arisen in section 3, and will arise several more times.

One telling example is Rawls's argument why the choosers in the "original position" would favor a principle that gives priority, *inter alia*, to the liberty of conscience. It might be asked, he says, why the choosers, instead of opting for this priority, wouldn't allow for trade-offs. Imagine an alternative principle that, when many people could become very happy if the religion of just a few people were repressed, permitted repression. For the choosers in the "original position", wouldn't such a principle be the "better bet"? Rawls replies: "If the parties were to gamble in this way, they would show that they [...] did not know what a religious, philosophical, or moral conviction *was*."³⁸

Thus, in Rawls's usage the predicate "religious conviction" *entails* that nobody would want to abjure their religious conviction, not for all the tea in China. It is, in this usage, analytically true—true of *words* like "faith"—that people have a lexicographical preference for their faith over tea (or money, or whatever). And *because* people have this preference, says Rawls, principles will be chosen that respect the priority.

However, if this argument from lexicographical preferredness works at all, it will work across the board. Principles will be chosen according to which *whatever* is lexicographically preferred gets lexicographical protection.³⁹ Why not admit this, then? Friends of "primary goods" can't have it both ways, and

they should face up to that fact. Either preferences don't have authority in matters of justice—in which case Rawls cannot employ arguments like the one we have just seen him employ. Or they do have authority—in which case the principles of justice had better say so.

4.3 "Moral Powers"

The plan was to discuss explicit objections to preference-justice. Even so, we should take a moment to leave the individual objections aside and glimpse, as far as it can be made out, the root of the dissent: where in Rawls's doctrine do the "primary goods", and the absolute priority of some of them over the others, come from? As we know, a significant part of the answer is that they get chosen in the "original position".

But beware—the *particular* "goods" get chosen because Rawls has equipped the choosers with *particular* preferences. He has equipped them with "highest-order interests" to cultivate what he decides to call their "moral powers":

"The first power is the capacity for an effective sense of justice, that is, the capacity to understand, to apply and to act from (and not merely in accordance with) the principles of justice. The second moral power is the capacity to form, to revise, and rationally to pursue a conception of the good. *Corresponding to the moral powers, moral persons are said to be moved by two highest-order interests to realize and exercise these powers.* [...] [T]he parties [of the "original position"] are simply trying to guarantee and to advance the requisite conditions for exercising [...] [these] powers."⁴⁰

Now, to say that the right thing is the thing that friends of goods A, B, and C would choose is, first and foremost, to say that the right things *are* goods A, B, and C. The "original position" has degenerated into a labeling machine. The moralist puts in "highest-order interests" at his discretion, and the machine declares them to be highest-order moral priorities. Little of import is going on here.

What we're left with is an axiological bottom-line: John Rawls wants to live in a society in which people understand (apply, etc.) the principles of justice and in which they revise and rationally pursue a conception of the good; these two things are more important to him than anything else. And the "primary goods" are not, as Rawls would sometimes have us believe, "all-purpose means"⁴¹. They are, to a considerable extent, special-purpose means; the special purposes include the understanding of justice and the revision of one's values.

So we have once again arrived at the gulf between the preferentialist and the Rawlsian. The problem is not the appeal to second-order preferences as such: if only they were sufficiently neutral! A second-order preference, say, to lead a life with as little preference frustration as possible—whatever the particular first-order preferences may turn out to be—would do fine. It might even amount, more or less, to the third interest Rawls says his "moral persons" have, viz. a "higher-order interest in protecting and advancing their

conception of the good as best as they can". However, by making this only one high-order interest among several, and also by saying that this higher-order interest is "subordinate" to the other two,⁴² which are highest-order, Rawls celebrates *some* interests. In doing so, he violates the neutrality condition (clause 3 of the creed we presented in section 1.3), and thus the preferentialist's ideals of fairness and tolerance. In that sense, Rawls's system is really on the other side: the "*chacun à ma façon*"-side.

While any violations of neutrality are hard to accept, the particular ones Rawls has in mind do not make the task easier. Thus, with "highest-order interest" no. 1, i.e. the interest to understand etc. the principles of justice, Rawls's morality turns intentionalist; whether people *think* the right thing is held to be of moral importance.

But why? Other things being equal, people could just as well conform to the old-fashioned ideal of a mother: few principles, lots of warmth; they could also "become as little children", or as "the fowls of the air", or the "lilies of the field"—to quote just a few prominent suggestions.⁴³ There is, I submit, no intrinsic point in *understanding* the good or the right, and in acting *from* it. Good thinking can, on occasion, serve the good or the right, but it doesn't constitute it. What counts are the consequences, not the motives, and certainly not the IQ.

As an illustration, suppose that we could choose between two societies: in the first, the citizens are deeply unhappy but cultivate their sense of justice; in the second, they are deeply happy but do *not* cultivate their sense of justice. Now, if we really gave top priority to the cultivation of the sense of justice, we would have to favor the first of these societies over the second—that is, misery over happiness. This would be absurd. And things would not get significantly less absurd if we said that the cultivating, by being just one of the top priorities (with happiness itself among the others), cannot outweigh *everything*. It could still outweigh a lot, including a lot of misery, and that is highly implausible.

The emphasis on things other than the interests of the affected parties is also why the mentally handicapped, the seriously ill, and animals play no role, or at best a rather awkward one, in Rawls's political ethics. Say that Mary falls severely ill and needs costly medical treatment. Why should society give it to her? Because she is suffering? Because she does not want to die? Because her children are suffering with her and do not want to lose her? Wrong, says Rawls: "The aim is to restore people [...] so that once again they are fully cooperating members of society."

Is that what we want to say? Is that our "considered judgment", "after due reflection"?⁴⁴ Gloomy prospects for those patients who would love to be saved, but will not be able to function, or to cultivate their "moral powers", afterwards. No life-support for those, e.g., who will no longer be able to understand the principles of justice?

A few words also on the second "highest-order interest". It includes, among other things, a praise of revisions. This, too, I find hard to join in. I have no

intrinsic objection to people simply *having* values.⁴⁵

To be sure, it is in a person's own best interest, and thus ought to be the case, that, *if* she wants to revise her values, she can and does; and similarly that, *if* revising her values leads to a fulfillment profile that is better for her (better in terms of desire fulfillment), she can and does revise them. But these two "ought"s and their implications are fully looked after by an interest in one's own good, where they are, as they ought to be, on a par with other considerations about one's own good. In order to adequately protect them, we need no extra clause about revisions.

Notice that Rawls goes further in two respects.⁴⁶ One is that via "highest-order interest" no. 2 he ascribes *intrinsic* importance not just to the possibility, but to the *exercise* of revisions. This is implausible. Little Dorrit, for example, is *never* going either to question or to change her own conception of the good, and what is wrong with her?⁴⁷

And Rawls assigns *top* importance to revisability. This is also implausible. Some of the best things in life require decisions that are not revisable. To live is to forsake possibilities, to pass points of no return. A person who gives high priority to revisability—mostly choosing the course that will commit her least, mostly "keeping her options open"—is an unlikely candidate for a moral ideal.

Ulysses, in order to listen to the sirens, has himself tied to the mast. He gives orders that his future orders be ignored, thus choosing, autonomously and rationally, to reduce revisability to zero. We hope for him that the coup works, and are glad to read that it does. Our lives abound with such structures, large and small.⁴⁸ Obviously, some things are worth some very basic liberties. Even if revisability were a special good, it surely wouldn't have lexicographical, or even high, priority over other goods. And if it doesn't, an argument for the lexicographical priority of "basic liberties" over other goods cannot be grounded in it.

Is it really the case, then, that "we *want* people to care about their liberties and opportunities in order to realize" Rawls's two powers, and that "we think they [including Little Dorrit?] show a lack of self-respect and weakness of character in not doing so"?⁴⁹ Fellow-citizens, somebody is preaching one particular life-style and pushing it at the cost of others. He can't be a liberal.

5. Expensive Tastes

Rawls frequently mentions "expensive tastes" as a problem for the preferentialist. Given some of its connotations, the word "taste" may not be a happy choice. It suggests that the mental states in question either, some way or other, fall short of being preferences in the full-fledged sense (in which case, however, the preferentialist wouldn't want to count them in either, so Rawls would be carrying coals to Newcastle) or are preferences we are permitted to ignore (which, however, is the moral claim that is at issue, and should therefore not be entailed, or insinuated, by the choice of words).

The examples Rawls adduces include people who "have a strong desire to

study quasars with powerful radio telescopes”, people who desire “going on pilgrimages to distant places or building magnificent cathedrals or temples”, and people who “are distraught without expensive wines and exotic dishes”⁵⁰. Preferentialists, Rawls seems to think, are committed to fulfilling these desires—whereas if we talk of “primary goods” instead, we can simply leave Chablis, St. Peter’s, and telescopes off the list, and thus render justice immune to the special claims of connoisseurs, popes, scientists, and the like.

However, that the items can be left off the list is no good reason for *having* a list. Forcing a village of miserable serfs to build, say, a château or a radio telescope for their local potentate is a revolting idea anyway. Even utilitarianism says so, not to mention those systems of preference-justice, gestured at towards the end of section 1.3, that work with minimum levels of utility or with other equality constraints. To see this, just look at the preferences of the hundreds of serfs and at those of their starving children.⁵¹ Where, then, *is* the scandal in the preferentialist treatment of “expensive tastes”?

But would not, an objector might insist, preferentialists “require society to skew the allocation of resources in an extreme way in favor of the person interested in quasars”?⁵² Yes and no. In never-never land, where the non-astronomers simply don’t mind parting with their money and time, nothing is wrong with transferring these resources to the astronomer who would be sad without them. It would be wrong not to. But in life as it is, people have their own projects and do mind very strongly giving up their money and time; thus, the preferentialist will tend to decree, like Rawls, that they ought *not* to be asked to do so. To say that all preferences, including expensive ones, *count* is not to say that when the counting is over expensive preferences will *win*. In fact, “expensive” already entails that their chances of winning are slim. For it *means* that there are lots of competing considerations on the other side of the scales.

Neither should we forget the person who has the costly preference: what about *her* rights and *her* welfare? What would permit us to leave them out of the picture? Surely what these situations call for is a weighing, not an ignoring, of claims.

Rawls is worried that taking into account “expensive tastes” would be “socially divisive”, almost “a receipt for [...] civil strife”.⁵³ But first of all, as was pointed out in section 3.3, preferentialism entails lots of reasons against hubbub. Second, even if it didn’t, the objection would be incomplete. If taking into account expensive preferences caused riots, then the preferences thereby frustrated would still have to be weighed against the others. We cannot just assume that conflict must be avoided; we must look at the moral costs of the avoidance.⁵⁴ Third, we have seen that taking costly preferences into account the way preferentialism does is far less demanding than Rawls seems to think. And finally, what about his own theory? There are some rights or liberties that Rawls does not just honor but kowtows to.⁵⁵ Their lexical priority makes them *infinitely* expensive—is that *not* an incentive for civil strife?

Next, Rawls sees the danger that people would cheat, and would pretend

to have expensive desires that in fact they don't have.⁵⁶ But deception is a special case of the verification problem, which we covered at length in section 3.2. And the problem arises for other goods as well. Hiding money is at least as easy as hiding preferences.

Even if people don't cheat, Rawls says, they could feel encouraged to

"develop [...] costly conceptions of the good in order to shift the distribution of the means of satisfaction in their direction, if only to protect themselves against exorbitant claims of others."

However, counting expensive preferences doesn't lead to exorbitant claims. It may lead to claims, but so does every conception of justice, Rawls's included. And *developing* costly preferences in order to get the means of their satisfaction is foolish.⁵⁷ It's like borrowing money for the *sole* purpose of returning it. That's not a way of coming out ahead.

It doesn't help that Rawls never gives us a general characterization of "expensive tastes". When we endeavor to fully understand his objection, and to figure out the scope of his ban, including the decisive features that are supposed to justify the ban, the censor forces us to speculate. The best we can do is recall his examples, quoted at the beginning of this section, and try to extrapolate from them.

So let us see. Should justice ignore these preferences because they are strong? This suggestion is too macabre to deserve discussion. Should justice ignore them because they are unusual? This can't be right either—especially if we're still talking about strong ones. Should justice ignore them because their satisfaction would require that other people have lots of frustrated preferences, or have to give up lots of their "primary goods"? Hardly, for how could that make it right to not even *take into account* some of the preferences involved (especially some of the strong ones)? To be sure, problems of justice arise when we can't give everything to everybody. These are times for adjudicating, and also for deciding, unavoidably, against some preferences—but not for plugging our ears. And, once again, remember that Rawls himself cultivates "goods" that can cost other people a fortune; he does so, unlike the preferentialist, without even checking whether they are worth anything in the eyes of their recipients.

Here's another idea: should justice ignore these preferences because they can easily be changed?⁵⁸ However, it is not at all clear from the Rawlsian examples that they can be changed any more easily than others, which the Rawlsian index protects. Furthermore, *whenever* preferences get into each other's way and a collision can be avoided or ended, without too much trouble, by removing some of them, they ought to be removed and not, at the cost of others, satisfied. But that is fully acknowledged by the preferentialist, and can, as section 7 will show in some more detail, easily be expressed in his framework. And it holds true of *every* preference, not just of expensive ones and not just of preferences for specific items that fail to get Rawls's approval.

At this stage, one might be tempted to probe further. Should justice ignore

these preferences because preferences are morally irrelevant anyway? But even if the “because”-clause were plausible (a big “if”), it would amount to the admission that there *is* no argument from “expensive tastes”. That “expensive tastes” should be discounted would be taken to follow from anti-preferentialism, rather than to support it. Any other suggestions? Should justice ignore these preferences because their content is not on the index of “primary goods”? It is about time we stopped. Once again: the objection from “expensive tastes” was supposed to give us one of the *reasons* to turn away from preference satisfaction to “primary goods” as the currency of justice. Such a reason should hardly invoke the *premiss* that “primary goods” are what justice is all about.

6. Preferences with an Unfair Genesis

Rawls, like others, has objected to preference-justice on the grounds that preferences can have an unfair genesis. This is why they are a poor guide for morals, and this is why we should specify people’s needs in some other way.⁵⁹

If, for instance, you have no wish to own a house, then this may have been caused by conditions that are themselves unjust. Say you’re destitute, and so are your parents and friends and neighbors, and that’s the way it has been as long as you can remember. This has shaped you; it has made owning a house “unthinkable” for you, has prevented or stifled, not frustrated, the desire to own a house. If that is why the preference has never, or hardly ever, existed in you, and if today you still live in a trailer park, whereas a rich man has a weak preference to own yet another house—should we really give, as preference-justice seems to imply, the house to him rather than to you?

Notice a parallel. The argument is, in a sense, an anti-preferentialist variety of the argument that “voluntary” agreements can have moral authority only if they have been reached in fair bargaining situations. They must be “truly voluntary”.⁶⁰ A contract doesn’t morally bind you, if, say, signing it was your only way to avoid starvation. In both these cases—house and starvation—an unfair genesis is supposed to deprive an item of its moral authority: a preference pattern in the one case, a promise in the other.

Returning to the real-estate example, let me begin with a preliminary observation. The point the example is trying to establish is compatible with allowing preferences, and in a sense preferences only, to have substantial moral weight. For the challenge, supposing it was one, could be met by appealing to the preferences people *would* have under certain, perhaps morally less problematic, circumstances. Nothing here propels us away from preferences and on to “primary goods”. Even if the example worked, it would suggest a modification, not a rejection, of preferentialism.⁶¹

Anyway, it does *not* work. Recall, from section 1.2, that we are studying a brand of preferentialism in which hedonic happiness, too, counts. “Pleasure and the absence of pain” have always been seen as a part of welfare, and we have built this into our preferentialism by stipulating that people desire,

roughly speaking and among other things, their own pleasure. (As I have pointed out we could just as well do without that stipulation and say instead that both desire fulfillment and pleasure count.)

Bearing this in mind, let us ask who should get the house. The preferentialist replies as follows:

There are preferentialist reasons to make you hedonically happy. *If* giving you a house neither contributes to your hedonic happiness nor satisfies, directly or indirectly, any other preference, then there is indeed no moral reason to give you the house. (But who on earth would want to deny *that*?) *If*, however, it makes you hedonically happy or satisfies, directly or indirectly, another preference, then there *is* a moral reason to give you the house.

Thus, the preferentialist says what we all want to say. Of course, *aggregational* principles will still have to be applied in the second case (where your receiving the house would make you happy or satisfy another preference), since the rich man, too, wants to own the house. As to aggregation, we can choose—remember the end of section 1.3—from the vast range of preferentialist options, including, e.g., moral priority for the worst off. It is sad that Rawls decides to burke most of these systems, by just not putting them on the menu that the parties in the “original position” can choose from.⁶² At any rate, preferentialism itself is merely a claim about what counts—about the currency of justice. That’s the claim the unfair-genesis objection was supposed to discredit, and that’s the claim that stands vindicated.

Four more remarks may be in order. First, some authors seem to be concerned with the problem that the deprived and repressed may not dare to *articulate* their wishes.⁶³ It is indeed vital for the preferentialist to bear this in mind whenever he endeavors to establish the facts his morality responds to. As an objection, however, the problem is a special version of the objection from verification, which was discussed in sections 3.2 and 5. Notice, incidentally, that the objection, or at least what most of the objectors want to make of it, presupposes significant knowledge on their part of the unarticulated wishes; but, obviously, when that knowledge is available, the objection doesn’t get off the ground.

Second, we should bear in mind from section 1.2 that we’re talking about *intrinsic* preferences. If you merely fail to want the house in a sense of “wanting” that implies “deeming attainable”, then that is not an absence of a preference in the preferentialist’s sense of “preference”.

Third, preferentialists look at *implicit* desires. This point was also mentioned in section 1.2, and here becomes relevant as follows. According to some critics, the fact that deprivation might narrow down your *imagination* gets preference-justice into trouble.⁶⁴ But it doesn’t. Preference-justice guarantees, just as the critics think it should be guaranteed, that this kind of fact can have no moral impact whatsoever. For, if your poverty prevents you from even imagining that you own a house, this doesn’t imply that you do not desire, in the sense of “desire” relevant for the preferentialist calculus, to own

a house. What preferentialists go by is how you would feel *if* you imagined it, not whether you do imagine it.

Since many of the preferentialist moves in this section admonish us, one way or another, not to rush into the judgement that a certain preference fails to exist, a critic would be right to remind us in return that, in the house story as I told it, at least one preference, the one for the house itself, does indeed not exist. Although I have already given the main reason why this shouldn't worry us, I would like to add a brief general word on "missing" preferences. It should not be thought that the worship of preference satisfaction entails indifference between the existence of one preference pattern and that of another. Quite the contrary: since some preference patterns are more conducive to satisfaction than others, friends of preference satisfaction will take an enormous interest in the creation of the right patterns. (A little more on this below, in section 7.) And of course, as parents know, creating the right pattern will sometimes involve giving you something that you didn't want *ex ante*, but get to want *ex post*.

If *all* this is understood, why should we believe, with John Rawls, that "needs are different from desires, wishes, and likings"⁶⁵?

7. Changes of Preference

7.1 Fickleness

The final objection to be considered concerns changes of preference. It is one of those objections, mentioned towards the beginning of section 3, that Rawls addresses to one particular brand of preferentialism, in this case utilitarianism, but that he could just as well have raised against the other brands.

Utilitarianism, Rawls criticizes, will ask citizens

"to adjust and revise their final ends and desires, and to modify their traits of character and to reshape their realised abilities [...]."

Utilitarians have to see citizens as "passive carriers of desires", as "bare persons", ready to "consider any new convictions and aims, and even to abandon attachments and loyalties" when doing so is required by their conception of justice. These observations, Rawls says, "suffice to illustrate the contrast between utilitarianism and justice as fairness".⁶⁶

What contrast? Reprogramming is precisely what Rawls himself prescribes. Defending "primary goods" against the reproach that they might diverge radically from desiderata, and thus be morally off the mark, he says that his doctrine "relies on a capacity to assume responsibility for our ends"; he assumes

"citizens to stand apart from conceptions of the good and to survey and assess their various final ends; indeed this must be done whenever these ends conflict with the principles of justice, for in that case they must be revised."⁶⁷

What are we to make of this? If Rawls can say this, why can't Sidgwick? It is true that Rawls professes to exempt *some* preferences from the scythe of justice.⁶⁸ This exemption, however, cannot make the decisive difference. First, because it is still true of Rawls, too, that he will subject many a deep and strong preference to revision, since many a deep and strong preference could, in certain realistic circumstances, be fulfilled only if Rawls-justice were violated; consider, for instance, a mother's ardent wish that her son, the robber, be spared from going to prison. Second, because the form, too, of the exemption confirms the *tu quoque*.⁶⁹ For Rawls says that people should revise only those desires whose fulfillment would conflict with justice. The utilitarian believes the same—the only question being what justice is. There is no *extra* dissent here with respect to the question whether justice can, to a considerable extent, boss around preferences.

It seems, then, that Rawls's views on preference changes are themselves prone to change—depending on whether he is defending his own theory or attacking others.

7.2 Preference Changes in Rawls's Defense of "Primary Goods"

We have encountered a tension in Rawls's position on preference changes: he decries utilitarianism for requesting them, but requests them himself when it suits him. Let us now look a little more closely at the second of these moves—that is, at Rawls's own appeal to preference changes in his defense of "primary goods".

First, and perhaps most significant, isn't that appeal peculiar? Doesn't it suggest that, if the preferences could not be changed, the "primary goods" would be inadequate—and thus, that preferences have the last word after all? But if they do, why not say so straightaway, in the principles of justice? Why switch to "primary goods"?

Second, feasibility: deciding to desire, or bringing about a change in one's desires, is not always possible. It will not do to reply that the choosers in the "original position" had a strong preference for revisability and will therefore have secured it.⁷⁰ Even if this were one of the more plausible premisses of the "original position" (we have seen in section 4.3 that it is not), the "therefore" would be too quick; for no matter how strongly the choosers prefer, their choices won't bring about the impossible. Thus, for every desire that Rawls wants to be changed, he would have to show that it *can* be changed. And since for him the praise of revisability has to do with autonomy,⁷¹ not every form of change will satisfy him; think of brainwashings, drugs, or television. So it would have to be shown not just that the changes can be brought about, but that they can be brought about autonomously, in whatever sense of "autonomous" that Rawls may have in mind.

Third, even if I *can* change certain preferences I have, will I want to? Remember from section 7.1 that quite a few of the preferences Rawls requires us to change will be deep and strong. Against other criteria of justice he adduces

what he calls the “strains of commitment”: people in the “original position” choose no principle that they believe might require so much of them that they won’t comply.⁷² But wouldn’t preference changes of the type Rawls requests themselves be such strains, and rather heavy ones?

The previous three points connect to a fourth one. For in as far as preferences have moral authority even according to Rawls (see the first point), but sometimes cannot, or cannot in the right way, or will not, be changed to correlate with “primary goods” (see the second and the third points), justice in terms of “primary goods” will violate even the moral authority Rawls himself grants to preferences. Over and above injustice, inconsistency threatens.

Finally, whoever demands revisions of preferences must tell us which of the conflicting parties he wants to change, and *why* that party rather than another. Where preferences clash, who is the victim, who the culprit?

Say the pope wants me to do a handstand, I don’t feel like doing one, and both of us could revise our preferences—which of us would Rawls ask to revise? To claim that the index of “primary goods” will answer such questions (for instance, by including a basic liberty to stand on one’s feet) would only be passing the buck: how do we justify the index? From there, it can be passed further, via the “original position” or some such device, to a hypothetical individual rational choice. But what then? Rational choice as such, even behind a “veil of ignorance”, will give us results conditional on the strength of the conflicting preferences (see above, section 3.1), and this is not what Rawls wants. His only chance of getting results in non-preferential terms is to *equip* the morally relevant hypothetical choosers with *specific* preferences (see above, section 4.3). This, however, gets us nowhere near a moral argument. It’s just a moral verdict.

7.3 Reasonable Changes

Rawls’s ideas about preference changes, including the anti-preferentialist moves he is trying to make, are flawed—in numerous ways and sometimes to the degree of inconsistency. That has been the upshot of sections 7.1 and 7.2.

Contrast that diagnosis with the preferentialist stand on these issues. Our decisions, political and private, will bring into existence certain preferences as opposed to others. Some of the decisions—think of procreation, famine relief, or schooling—will do so on a grand scale. “[H]ow can we judge”, Mill is quite right to ask,

“in what manner many an action will affect even the worldly interests of ourselves and others, unless we take in, as part of the question, its influence on the regulation of our, or their, affections and desires?”⁷³

Morality must indeed be sensitive to that dimension; it must take into account preference *dynamics*, and preferentialism does. In their society and family and own life, preferentialists will aim at the existence of satisfiable preferences—to be exact, of co-satisfiable preferences. For the more co-satisfiability there is, the less frustration there has to be. Of course, they will bear in mind

that some frustrations pave the way to satisfaction. However, owing to the condition of neutrality—a condition of equality and tolerance— they will *not* discriminate on grounds of content.

In short, if and only if the best feasible fulfillment profile requires changes of preference, these changes ought to be effected. All the preferentialist wants is a preferentialist reason for them.

8. Conclusion

Desire fulfillment, says the preferentialist, is the alpha and omega of justice. John Rawls denies this, and we have looked at his major objections.

The objections have been defused. Doing so required little or no appeal to moral intuitions. Some objections vanished as soon as preferentialism was properly understood. Others turned out to be based on double standards, with Rawls considering the mote in his brother's eye, but not the mote, or beam, in his own. And quite a few backfired, raising serious doubts about the consistency of Rawls's doctrine. To be sure, the fact that the objections have been defused does not settle the issue: there are other arguments for and against preference satisfaction and its rivals. Still, preferentialism does emerge strengthened.

Let us have a parting look, not at the particular objections, but at the general issue. What counts, we preferentialists hold, is not things, but how people relate to them. It is not *just* to give one loaf of bread each to a being that has no desire to eat and to a being that would love to survive but needs two loaves in order to do so; ditto in matters that are less specific, or less dramatic, or both. Rawls-justice, I submit as others have submitted before me, does not sufficiently respect this.

If, as Rawls suggests, our principles of justice talk of particular "goods", we are bound to get into trouble: in which sense are they goods, and how do we know? What happens when they diverge from the things people desire and the things that make people happy? Worse still, what happens when they diverge and the relevant preferences should not, or even cannot, be changed?

If, vice versa, we start with preferences, and make the goods accountable to them, we get a story that makes sense: the search for the best feasible fulfillment profile. In that story, people get what they want—and will be asked to revise their preferences when this is both good and possible.

Preferentialism has a simple old truth on its side. Perhaps we can re-open our eyes to it. Means receive their life from ends. Being preferred, or being conducive to what is preferred, is precisely what *turns* things into goods. If our principles of justice lose sight of this, we might as well play blind man's buff.

Acknowledgements

For critical discussions I'm grateful to Ulla Wessels; furthermore, to Chris Abbey, Richard Hare, Wilfried Hinsch, Georg Meggle, Elijah Millgram, Clark

Wolf, and to the participants of the conference “Zur Idee des politischen Liberalismus”, held in Bad Homburg, Germany, in July 1992. Thanks are also due to the Center for Philosophy of Science, University of Pittsburgh, where I started writing an ancestor of this chapter back in 1992; to the *Deutsche Forschungsgemeinschaft (DFG)* for supporting the research project “Was zählt?”; and, finally, to the *Alexander von Humboldt Stiftung* and to Stanford University, for two productive years in California.

I should also acknowledge this chapter’s relation to Fehige 1997, where the battle between the desire camp and the Rawlsian camp was on the agenda as well. I have there traced the dissent—its reasons, scope, and implications—through the various levels, old and new, of Rawls’s system: his aims (political), his method (intuitionist), the quest for consensus, the “original position”, the “ideal of the moral person”, and others.

Notes

Arabic or Roman numerals not marked as page numbers and not used to indicate years are numbers of parts, chapters, or sections; “-B” means “towards the beginning”, “-E” means “towards the end”.

1. Kant 1785, p. 430. For more on preferences and their role in ethics, see Fehige/Wessels 1998, esp. the introduction; large portions of the literature can be explored with the help of the structured bibliography in the same volume.

2. The expression “pleasure and the absence of pain” is Mill’s, from 1861, II-B; similarly Bentham 1789, I. For the relation to desires, see e.g. Kant 1785, pp. 399, 415f, 1788, pp. 43 and 45 (“Anmerkung II”-B), as well as Singer 1979, p. 131.

3. The “proper conditions” include that she is sober, not too agitated by other issues, etc.; preferentialisms can differ with respect to the details. See also below, section 6. For appeals to counterfactual conditionals in this and related contexts, see Arneson 1990a, pp. 162–4, 1994, Brandt 1970, 1979, VI, 1998, Lewis 1989, esp. pp. 121–6, Railton 1986, p. 16, Sidgwick 1874, pp. 110–12, Smith 1984.

4. Both quotations are from James 1891, p. 149, emphasis added. Recall the remark on desire and pleasure from section 1.2; against that background, claim (1) includes, and claim (2) doesn’t exclude, hedonic happiness (that is, feeling good).

5. Bentham, notoriously the source of this slogan, was, just as notoriously, concerned with pleasure, not preference satisfaction: “Prejudice apart, the game of push-pin is of equal value with the arts and sciences of music and poetry. If the game of push-pin furnish more pleasure, it is more valuable than either.” (1825, p. 253.) For the “condition of neutrality” see e.g., via the entry “neutrality” in the index, Sen 1970.

6. From, in Rawls’s words, the “fact of pluralism”—see below, section 2; ditto for more on the “basic structure”.

7. See Blackorby/Donaldson 1977, Foster 1985, Kutschera 1982, 4.3, Parfit 1991, Sen 1973, 1982, 1992 (with numerous further references on p. 93), Temkin 1993, Trapp 1992, 2.

8. SUPG IV-E, emphasis added. Lyons, see 1972-B, is one of many who assume utilitarianism to be Rawls’s main rival. Rawls’s own tendency to ignore preferentialist alternatives to utilitarianism will come up again, see the introduction to section 3 (including note 14, with references to his discussions of utilitarianism and to other people’s critique of

that discussion) and the remarks on aggregation in section 6.

9. SUPG II-B; the previous quotation (“‘basic structure’ of a modern constitutional democracy”) is from JFPM I-B. More on the “basic structure” in *TJ* 2, BSS (correspondingly *PL* VIII), and *PL* I.2.1; see also Fehige 1997, 3.3 and pp. 317–19.

10. For the “fact of pluralism”, see e.g. IOC, pp. 424, and *PL* I.6.2; as to how it should shape a theory of justice and the search for it, see KCMT, first lect., I, JFPM If, and *PL* I.6. The issues are also discussed in Fehige 1997, 3.1–3.3; and below, in section 3.3.

11. On the “original position”, see *TJ* 4 and III, BLP IV (correspondingly *PL* VIII.4), JFR 6 and III, *PL* I.4; for its preferentialist ancestors and relatives, see below, note 16. Rawls’s version is criticized e.g. in Fehige 1997, 3.2, and Hare 1983. More on the “certain kind of person” who chooses: below, in section 4.3.

12. BLP I-B (correspondingly *PL* VIII.1-B); for the quotation I replaced “First, they” with “2.a They” and “second,” with “2.b”. See also SUPG II-B and *PL* I.1.1. The changes compared to the wording in *TJ* are motivated and explained in BLP (correspondingly *PL* VIII).

13. The label “justice as fairness” comes up throughout, see JF, JFPM, and the indexes of *TJ* and *PL*. It is not too helpful (in much the same way as the label “true justice” wouldn’t be), since, as I have already mentioned, *most* theories of justice would claim to capture the ideal of fairness.

The previous three quotations are from SUPG II-B; for “primary goods”, see also *TJ* 15, KCMT, first lect., IV, PRIG IIIf, and *PL* V.3f. Critical discussions can be found in Alexander/Schwarzschild 1987, III.A, Arneson 1990a and b, Arrow 1973, III.1, Fehige 1997, 3.4f, Schwartz 1972/73, and Sen 1980, 3.

14. I shouldn’t get side-tracked into exploring or discussing these systems here. Notice two things, however. First, the second of the three Rawls has to invent before dismantling it; second, the last two are unusually bizarre proposals. As I have remarked earlier (section 1.3-E) and will remark again (section 6, paragraph on aggregation), Rawls seems to have little interest in discussing intelligent preferentialist alternatives to utilitarianism.

For Rawls’s discussion of utilitarianism, see e.g. JF 6f, *TJ*, 5f, 27f, 30, and pp. viif, SUPG VI–VIII, and JFR 27–33 (parts of this discussion are criticized in Fehige 1997, 3.6, Hare 1983, Lyons 1972, Narveson 1982); for his discussion of the “principle of restricted utility”, *TJ* 49 and JFR 34–8; and for his discussion of “equal proportionate satisfaction”, FG VII (cf. Arneson 1990b, pp. 434f).

15. KCMT, first lect., IV, and *PL* II.3; similarly FG I and BLP, p. 21 (correspondingly *PL*, p. 307).

16. Such as Vickrey 1945 and Harsanyi 1953; Pattanaik 1968 and Sen 1970, 9.3-B, are instructive guides to the pre-*TJ* literature. For other more or less preferentialist versions, or thoughts on the matter, see Arrow 1973, II, Fehige 1995, 2-E, Hare 1981, p. 129, Harsanyi 1975 and 1977, I.4, Kutschera 1995, pp. 67–70 (and Hare’s response in the same volume), Resnik 1987, 2.

17. Cf. *TJ*, p. 131, and Hare 1981, esp. p. 21.

18. Not surprisingly, this is also what happens in preferentialist versions of the “original position”; see above, the references in note 16, and cf. below, in section 4.2, the discussion of Rawls’s more or less preferentialist argument for the liberty of conscience as well as, in section 4.3, the discussion of Rawls’s first “highest-order interest”. For the choosers’ means-ends rationality, see *TJ* 25 and VII.

19. Explications of rights in terms of preferences or interests can be found in the writings of Bentham, Feinberg, Frey, Godwin, Hare (e.g. 1981, 9), Hutcheson, Lyons, McCormick, Nelson, Raz, Sumner, and Tooley; parts of this tradition are pointed out in Waldron 1984, pp. 9–11 of the introduction. As to *liberty* in this sense, see e.g. Hobbes’s well-known dictum that a free man “is he that [...] is not hindered to do what he has a will to do.” (1651, XXI-B.) Similarly Mill 1859, p. 226.

Some would say that the conditional I've sketched should be a counterfactual one, for the reasons pointed out by Isaiah Berlin (1958, III-B, 1963/64, pp. 191–3, 1969, pp. xxxviii–xl) and many others. If this were so, it would only strengthen the point I've been making. Since counterfactual conditionals are even harder to check than those in the indicative mood, the violation or nonviolation of counterfactual-based rights and liberties, too, would be even harder to check. More on conditionality below, in section 4.1.

20. PRIG III-E, *PL* V.3.4.

21. See the references and discussions in Fehige 1997, 3.6; and below, sections 4.1-B and 5-B.

22. Rawls says that, as far as interpersonal comparisons of utility are concerned, he does not want to rest his case on *conceptual* problems (*TJ*, 15-B and p. 321). It is not quite clear how these remarks fit in with his objections from a lack of definiteness; be this as it may, definiteness itself is a point we have already discussed in section 3.1. The quotations are from JFR 38.1.

23. Cf. Alexander/Schwarzschild 1987, III.A, Arneson 1990b, IV, on the indexing problem, Fehige 1997, pp. 334, 358–60. A similar question applies to Rawls's complaint that preferentialist arguments would have to be "complicated" (*TJ* 26-E). Surely Rawls's readers, especially those who have had a try at fleshing out or applying his principles, must be surprised to hear him employ that objection; Wolff 1977, I-B, talks of the "labyrinthine complexities" of Rawls's system.

24. Cf. Hare 1981, 3, Parfit 1989, I, Sidgwick 1874, IV.IVf. As Mill puts it, "Those who adopt utility as a standard can seldom apply it truly except through the secondary principles; those who reject it, generally do no more than erect those secondary principles into first principles." (1838, p. 111.)

25. Whoever would not grant what is granted here would no longer make an argument from application (and only such arguments are now at issue), but one from other alleged inadequacies of X. As to Rawls's "publicity condition", see *TJ* 23 and *PL* II.4.

26. *TJ* 15-B.

27. For the general point, see e.g. JFPM II-E and DPOC IV; for its application to utilitarianism in particular, *TJ*, 29 and p. 145. Notice also that the seemingly anti-utilitarian arguments e.g. in SUPG are really arguments against the possibility of a "*well-ordered*" [which in Rawls's terminology means, roughly speaking, consensual] utilitarian society" with a "*shared* highest-order preference function" (VII-B, emphasis added). See also the discussion in Fehige 1997, 3.1–3.3, as well as the reflections on validity vs. stability and on acceptability vs. acceptance in Habermas 1995, p. 122; and cf. above, section 2-B, and below, section 5 (on civil strife).

28. Especially not for the type of support he envisages: the support of people who fully understand competing doctrines of justice (see e.g. JFR 35.1 and the first "highest-order interest", on which more below, in section 4.3) and who support the public conception not just as a *modus vivendi* (see IOC III, *PL* IV.3, V.5.4, and again the said "highest-order interest"). And despite what Rawls seems to think, the "strains of commitment", including those of compensation, do not make the prospects of preferentialism any dimmer than those of Rawls-justice—see Nagel 1973, p. 13; and below, the remarks on civil strife (in section 5) and on the costs of preference changes (in section 7.2, which also contains references and a brief explanation of "strains of commitments").

29. Bentham, as quoted in Mill 1861, V-E.

30. For Rawls's ideas on "public reason", see *PL* VI and my sketchy remarks above, in section 2-B.

31. As to "reasonable" and related expressions, see *TJ* 4, 9, KCMT, pp. 305f, JFPM, pp. 393f, *PL* I.6.2, II.1.2, II.3, III.7.4, IV.3.1, VI, and index (*s.v.* "reflective equilibrium" and "due reflection"), as well as RH, pp. 139, 148, 153. Fehige 1997, esp. 3.1, and Hare 1983-B discuss some of the problems in more detail.

32. PRIG III (similarly and correspondingly *PL* V.3.2).

33. FG 6f, *TJ*, pp. 156, 160, 262f, in RLT clause (c) of the reply to Lyons, RAM, p. 239, and SUPG VII-E; cf. above, section 3.1-E, and, earlier on in the same section, the remarks on conditionality.

34. Schwartz 1972/73 argues and illustrates this point, as do Alexander/Schwartzschild 1987, IIIA, and Sen 1980, 3.

35. "It is characteristic of utilitarianism that it leaves so much to arguments from general facts. The utilitarian tends to meet objections by holding that the laws of society and of human nature rule out the cases offensive to our considered judgments." (*TJ* 26-E.)

36. RAM IV-E, SUPG, p. 369, BLP, p. 48 (correspondingly *PL*, p. 333), and JFR 50.

37. "Desires and wants, however intense, are not by themselves reasons in matters of justice. The fact that we have a compelling desire does not argue for the propriety of its satisfaction any more than the strength of a conviction argues for its truth." (SUPG V-B.) See also FG 6f (esp. p. 70), *TJ*, 15-E and pp. 260–2, KCMT, first lect., IV-E, second lect., III, SUPG II-E, IV-E, BLP, p. 22 (correspondingly *PL*, p. 308), JFPM, p. 407, PRIG IIIf, and *PL* I.5.4, V.3.2, V.4.1, V.4.3.

38. BLP, p. 26 (correspondingly *PL*, p. 311), emphasis added; similarly JFPM, p. 405, and JFR 29.4-B, 30.1.

39. As in the preferentialist system discussed in Fehige 1995, involving a non-Archimedean concept of utility; see also the remarks on the protection of minorities in Fehige 1997, 3.6.

40. KCMT, first lect., IV-B, emphasis added. See also SRMC, p. 228, again emphasis added: the parties "think of themselves as beings who can choose and revise their final ends and who *must* preserve their liberties in these matters. [...] Since the two principles secure these conditions, they must be chosen." Similarly BLP, pp. 27f (correspondingly *PL*, pp. 313f).

"Moral persons" are already mentioned in *TJ* (see the index), but play a less central role there; on this important change see KCMT, first lect., I-B, second lect., IV-B, SUPG III, BLP III (correspondingly *PL* VIII.3), JFR 15, and *PL* I.5. That an interest is of a "high order" means, in Rawls's usage, not (or not just) that other interests are in its scope, but that it has "great strength" or "great rational weight"; I follow this usage for the sake of the argument.

41. BLP, p. 22 (correspondingly *PL*, p. 307), similarly *TJ*, p. 93; for references that show how radically "primary goods" are *not* intended to be all-purpose means, see above, note 37. That the "highest-order interests" select the "primary goods" is made very clear e.g. in KCMT, first lect., IV; see also my previous note. Some of the criticism I will raise in this section resembles that of Arneson 1990b, II.

42. The quotations in this paragraph are from KCMT, first lect., IV-B (see also *PL* II.5.2). In parts of *PL* Rawls speaks of higher-order interests only, which might mean that the subordinateness is gone; obviously, this move leaves the objection unaffected.

43. Matthew 18:3f, 6:26, 6:28; a splendid plea for such an ideal is Schlick 1927, esp. pp. 349f. Intentionalism is a crucial premiss for Rawls. In his system, (1) intentionalism plus (2) the "fact of pluralism" generate (3) tolerance: since now, in the "original position", the parties (1) want that later they support the principles of justice (intentionalism), and (2) know that later many different moralities will be in the air (the "fact of pluralism"), (3) they choose principles of justice compatible with lots of moralities (tolerance).

44. For these and similar expressions, and the important role they play in Rawls's theory, see the references above, in note 31. The previous quotation, about restoring people, is from *PL* V.3.5. For Rawls's struggle with the issue of health care, see also SRMC, p. 227, RAM III, note, KCMT, second lect., III-E, and SUPG IV-B.

45. The following paragraphs, together with section 3.1 above, imply a critique not just of Rawls, but also of the influential argument in Buchanan 1975, II.

46. This is clear from the long quotation at the beginning of this section and also from

SRMC, p. 228, and BLP, pp. 27f (correspondingly *PL*, pp. 313f).

47. In BLP V-E (correspondingly *PL* VIII.5-E) Rawls writes that “many persons may not examine their acquired beliefs and ends but take them on faith [...]. They are not to be criticized for this [...].” But they *are* heavily criticized (“insulted” might be the better word) by Rawls—see, for example, the statements I quote in the final paragraph of this section. Worse still, they are discriminated against, since the principles of justice are designed for, and justified with permanent reference to, the interest of the other kind of people, who *do* want to examine their ends. The non-examiners pay for the examiners’ liberties.

48. More on such structures, including numerous further references, in Elster 1979, II.

49. KCMT, first lect., IV-E.

50. The three quotations are from FG VII-B, BLP, p. 44 (correspondingly *PL*, p. 329), and SUPG IV-B, where the words “expensive tastes”, too, can be found. Dworkin (1981, II-B and VIII) also presents the objection from “expensive tastes”. Cf. the slaveholders in FG 6f, the critical remarks in Arrow 1973, III.1-E, and the relevant passage in Hausman/McPherson 1996, 6.3.2. Arneson 1990a, “Seventh Objection”, discusses the same problem; his and my discussions, I hope, supplement each other nicely.

51. There is, incidentally, a reasonably reliable procedure to establish that one person’s real-life preference for survival is stronger than another person’s (say, the potentate’s) real-life preference for a château: very roughly speaking, we could check whether the potentate would rather survive *without* the château or starve *in* the château. The issue raised here is that of “extended preferences”; cf. the discussion in Broome 1998 and the reply by Rudolf Schüßler in the same volume, as well as their references to the *loci classici*, esp. to the writings of Arrow and Harsanyi. See also Hare 1981, 7.

52. FG, p. 282.

53. BLP, p. 44 (correspondingly *PL*, pp. 329f).

54. See Fehige 1997, 3.1f; and above, section 3.3.

55. See the priority of his principle 1 over his principle 2, mentioned above, in section 2. On this problem, cf. Arrow 1973, II, Harsanyi 1975, 3 and postscript, Nagel 1973, p. 13, Narveson 1982, p. 132; and above, sections 4.2 and 4.3-E.

56. FG VII-B.

57. Cf. Fehige 1998, esp. 1. Though introduced for different purposes, the drug example in Parfit 1984, p. 497, illustrates the point. Remember that the extra *fun* of having fulfilled extra desires is another issue; it counts as the fulfillment of a different, existing, standing desire for pleasure, and does thus not argue for the intrinsic value of fulfilled extra desires; see above, section 1.2, and below, section 6. The quotation is from FG VII-B, emphasis added.

58. A *leitmotiv* in Rawls’s writings on “primary goods” and related issues; see below, the references in notes 67 and 70.

59. See Rawls’s remarks that “we want to go behind de facto preferences generated by given conditions” (*TJ*, p. 155; similarly *JF*, p. 66), and that a “free person is not only one who has final ends which he is free to pursue or to reject, but also one whose original allegiance and continued devotion to these ends are formed under conditions that are free.” (SRMC, p. 228.) Similarly *TJ*, p. 88, BSS IVf (correspondingly *PL* VII.4f), Elster 1983, III, Hausman/McPherson 1996, 6.3-E, Hinsch 1995, V, Nussbaum 1990, pp. 213–16, Marx 1844, Rousseau 1755, pp. 181f, 192f, 214, Sen 1985a, pp. 21f, 1985b, pp. 191, 197, 1986, p. 178, 1987, p. 11, 1990, pp. 127f, and some of the sources these authors refer to. See also the discussion in Arneson 1990a and 1994 and the essays (especially the one by Lawrence Haworth) in Christman 1989. On “primary goods” as the specification of citizens’ “needs”, see e.g. PRIG IV-E and *PL* V.4.2.

60. Cf. *JF*, p. 66, BSS IV-B (correspondingly *PL* VII.4-B) and Gauthier 1986, IV.3.2 and VII.

61. Arneson 1990a, “Second Objection”, points this out and pleads for such a modification;

see also Arneson 1994 and Nussbaum 1990, note 32. Remember (from the remarks on implicit desires in section 1.3, esp. note 3) that the preferentialist's conditional contains a reference to "proper conditions" anyway. The more strictly we interpret this expression, the less need there will be for a modification in view of the unfair-genesis objection.

62. See *TJ* 21; and cf. above, section 1.3-E and note 14.

63. See Nussbaum 1990, p. 215, reporting Chen's reports on polls among women in Bangladesh.

64. This seems to be the main worry in Nussbaum 1990, pp. 213f.

65. SUPG V-E; similarly FG-E and JFPM, p. 407.

66. The quotations are from SUPG, VI-E and pp. 369, 382f; Wessels 1998, note 57, contains many further references, to authors other than Rawls. On these issues, see also Arneson 1990a, "Third Objection" and "Fourth Objection", and 1990b, III; some of the moves presented here are anticipated there.

67. The two quotations are from SUPG, p. 369, and KCMT, second lect., III-B; similarly RAM III-E, BSS VIII-E (correspondingly *PL* VII.8-E), and *PL* V.3-E; see also below, the references in note 70.

68. See e.g. KCMT, second lect., III.

69. See the long quotation that lies behind us (on citizens' standing apart from their conceptions of the good) and Rawls's idea of "admissible conceptions of the good", SUPG I-B and PRIG III (correspondingly *PL* V.3), as well as his principle that "justice draws the limit", in the introduction to PRIG (correspondingly introduction to *PL* V).

70. See *PL* I.5.4, V.3.6-E; and above, the references in note 67.

71. More precisely, with "moral personality", which itself has to do with autonomy; see KCMT, first lect., IV-E, *PL* II.5; and above, section 4.3.

72. For Rawls's position, see *TJ*, 29-B and p. 145; more on the "strains of commitment" in RAM VI. Again, Nagel's argument in 1973, p. 13, resembles the one given here.

73. Mill 1838, p. 98. See also the symposium on possible preferences, esp. its introduction, in Fehige/Wessels 1998.

References

- Alexander, Larry, and Maimon Schwarzschild. 1987. Liberalism, Neutrality, and Equality of Welfare vs. Equality of Resources. *Philosophy and Public Affairs* 16, pp. 85–110.
- Arneson, Richard J. 1990a. Liberalism, Distributive Subjectivism, and Equal Opportunity of Welfare. *Philosophy and Public Affairs* 19, pp. 158–94.
- . 1990b. Primary Goods Reconsidered. *Notus* 24, pp. 429–54.
- . 1994. Autonomy and Preference Formation. In Coleman/Buchanan 1994, pp. 42–75.
- Arrow, Kenneth J. 1973. Some Ordinalist-Utilitarian Notes on Rawls's Theory of Justice. *Journal of Philosophy* 70, pp. 245–63.
- Bentham, Jeremy. 1789. *An Introduction to the Principles of Morals and Legislation*. London 1970: Methuen.
- . 1825. *The Rationale of Reward*. In vol. 2 of *The Works of Jeremy Bentham*. Edinburgh 1838–43: W. Tait.
- Berlin, Isaiah. 1958. Two Concepts of Liberty. In Berlin 1969, pp. 118–72.
- . 1963/64. "From Hope and Fear Set Free". In Berlin 1979, pp. 173–98.
- . 1969. *Four Essays on Liberty*. Oxford: Oxford University Press.
- . 1979. *Concepts and Categories*. New York: Viking Press.
- Blackorby, Charles, and David Donaldson. 1977. Utility vs. Equity: Some Plausible Quasi-Orderings. *Journal of Public Economics* 7, pp. 365–81.

- Brandt, Richard B. 1970. Rational Desires. In Brandt 1992, pp. 38–56.
- . 1979. *A Theory of the Good and the Right*. Oxford: Oxford University Press.
- . 1992. *Morality, Utilitarianism, and Rights*. Cambridge: Cambridge University Press.
- . 1998. The Rational Criticism of Preferences. In Fehige/Wessels 1998, pp. 63–77.
- Broome, John. 1998. Extended Preferences. In Fehige/Wessels 1998, pp. 271–87.
- Buchanan, Allen. 1975. Revisability and Rational Choice. *Canadian Journal of Philosophy* 5, pp. 395–408.
- Christman, John, ed. *The Inner Citadel*. Oxford 1989: Oxford University Press.
- Coleman, Jules, and Allen Buchanan, eds. 1994. *In Harm's Way*. Cambridge: Cambridge University Press.
- Daniels, Norman, ed. 1989. *Reading Rawls*. Stanford: Stanford University Press.
- Douglass, R. Bruce, Gerald M. Mara, and Henry S. Richardson, eds. 1990. *Liberalism and the Good*. New York: Routledge.
- Dworkin, Ronald. 1981. What Is Equality? Part I: Equality of Welfare. *Philosophy and Public Affairs* 10, pp. 185–246.
- Elster, Jon. 1979. *Ulysses and the Sirens*. Second, revised edition. Cambridge 1984: Cambridge University Press.
- . 1983. *Sour Grapes*. Cambridge: Cambridge University Press.
- Fehige, Christoph. 1995. Das große Unglück der kleineren Zahl. In Fehige/Meggle 1995, vol. 2, pp. 139–75.
- . 1997. Rawls und Präferenzen. In Hinsch 1997, pp. 304–79.
- . 1998. A Pareto Principle for Possible People. In Fehige/Wessels 1998, pp. 508–43.
- and Georg Meggle, eds. 1995. *Zum moralischen Denken*. Frankfurt a. M.: Suhrkamp.
- and Ulla Wessels, eds. 1998. *Preferences*. Berlin: de Gruyter.
- Foster, James E. 1985. Inequality Measurement. In Young 1985, pp. 31–68.
- Gauthier, David. 1986. *Morals by Agreement*. Oxford: Oxford University Press.
- Goldman, Alvin I., and Jaegwon Kim, eds. 1978. *Values and Morals*. Dordrecht: Reidel.
- Guhan, S., and Manu Shroff, eds. 1986. *Essays on Economic Progress and Welfare*. Delhi: Oxford University Press.
- Habermas, Jürgen. 1995. Reconciliation through the Public Use of Reason: Remarks on John Rawls's Political Liberalism. *Journal of Philosophy* 92, pp. 109–31.
- Hare, Richard. 1981. *Moral Thinking*. Oxford: Oxford University Press.
- . 1983. Rawls' Theory of Justice. In Daniels 1989, pp. 81–107.
- Harsanyi, John C. 1953. Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking. In Harsanyi 1976, pp. 3–5.
- . 1975. Can the Maximin Principle Serve as a Basis for Morality? A Critique of John Rawls's Theory. In Harsanyi 1976, pp. 37–63.
- . 1976. *Essays on Ethics, Social Behaviour and Scientific Explanation*. Dordrecht: Reidel.
- . 1977. *Rational Behavior and Bargaining Equilibrium in Games and Social Situations*. Cambridge: Cambridge University Press.
- Hausman, Daniel, and Michael S. McPherson. 1996. *Economic Analysis and Moral Philosophy*. Cambridge 1996: Cambridge University Press.
- Hinsch, Wilfried. 1995. Präferenzen im moralischen Denken. In Fehige/Meggle 1995, vol. 2, pp. 87–112.
- . ed. 1997. *Zur Idee des politischen Liberalismus*. Frankfurt a. M.: Suhrkamp.
- Hobbes, Thomas. 1651. *Leviathan*. Indianapolis 1994: Hackett.
- James, William. 1891. The Moral Philosopher and the Moral Life. In James 1897, pp. 141–62.
- . 1897. *The Will to Believe and Other Essays in Popular Philosophy*. Cambridge, Mass., 1979: Harvard University Press.

- Kant, Immanuel. 1785. *Grundlegung zur Metaphysik der Sitten*. In *Kant's gesammelte Schriften*, ed. by the Royal Prussian Academy, vol. 4. Berlin 1911: G. Reimer. Quoted from H. J. Paton's translation, but with the page numbers of the academy edition.
- . 1788. *Kritik der praktischen Vernunft*. In *Kant's gesammelte Schriften*, ed. by the Royal Prussian Academy, vol. 5. Berlin 1908: G. Reimer.
- von Kutschera, Franz. 1982. *Grundlagen der Ethik*. Berlin: de Gruyter.
- . 1995. Drei Versuche einer rationalen Begründung der Ethik: Singer, Hare, Gewirth. In Fehige/Meggle 1995, vol. 1, pp. 54–67.
- Lewis, David. 1989. Dispositional Theories of Value. *Proceedings of the Aristotelian Society, Supplementary Volume* 63, pp. 113–37.
- Lyons, David. 1972. Rawls versus Utilitarianism. *Journal of Philosophy* 69, pp. 535–45.
- Marx, Karl. 1844. Privateigentum und Bedürfnisse. (Title chosen by the editors of the *Gesamtausgabe*.) In: Karl Marx, Friedrich Engels, *Gesamtausgabe*, vol. 1.2. Berlin 1982: Dietz, pp. 418–23.
- McMurrin, Sterlin, ed. 1983. *The Tanner Lectures on Human Values 1982*. Salt Lake City: University of Utah Press.
- Mill, John Stuart. 1838. Bentham. In the *Collected Works of John Stuart Mill*, vol. 10. Toronto 1969: University of Toronto Press, pp. 75–115.
- . 1859. *On Liberty*. In the *Collected Works of John Stuart Mill*, vol. 18. Toronto 1977: University of Toronto Press.
- . 1861. *Utilitarianism*. In the *Collected Works of John Stuart Mill*, vol. 10. Toronto 1969: University of Toronto Press.
- Miller, Harlan B., and William H. Williams, eds. 1982. *The Limits of Utilitarianism*. Minneapolis: University of Minnesota Press.
- Nagel, Thomas. 1973. Rawls on Justice. In Daniels 1989, pp. 1–16.
- Narveson, Jan. 1982. Rawls and Utilitarianism. In Miller/Williams 1982, pp. 128–43.
- Nussbaum, Martha. 1990. Aristotelian Social Democracy. In Douglass et al. 1990, pp. 203–52.
- Parfit, Derek. 1984. *Reasons and Persons*. Edition with revisions from 1985 and 1987. Oxford 1989: Oxford University Press.
- . *Equality or Priority?* (The 1991 Lindley Lecture at the University of Kansas.) Lawrence, Kansas, 1991: University of Kansas.
- Pattanaik, Prasanta K. 1968. Risk, Impersonality and the Social Welfare Function. *Journal of Political Economy* 76, pp. 1152–69.
- Pieper, Annemarie, ed. 1992. *Geschichte der neueren Ethik*, vol. 2. Tübingen: A. Francke.
- Railton, Peter. 1986. Facts and Values. *Philosophical Topics* 14, pp. 5–31.
- Rawls, John. JF. Justice as Fairness. In Rawls 1999, pp. 47–72.
- . *TJ. A Theory of Justice*. Cambridge, Mass., 1971: Harvard University Press.
- . RLT. Reply to Lyons and Teitelman. *Journal of Philosophy* 69 (1972), pp. 556 f.
- . SRMC. Some Reasons for the Maximin Criterion. In Rawls 1999, pp. 225–31. Paper first publ. in 1974.
- . RAM. Reply to Alexander and Musgrave. In Rawls 1999, pp. 232–53. Paper first publ. in 1974.
- . FG. Fairness to Goodness. In Rawls 1999, pp. 267–85. Paper first publ. in 1975.
- . BSS. The Basic Structure as Subject. In Goldman/Kim 1978, pp. 47–71.
- . KCMT. Kantian Constructivism in Moral Theory. In Rawls 1999, pp. 303–58. Paper first publ. in 1980.
- . SUPG. Social Unity and Primary Goods. In Rawls 1999, pp. 359–87. Paper first publ. in 1982.
- . BLP. The Basic Liberties and their Priority. In McMurrin 1983, pp. 3–87.
- . JFPM. Justice as Fairness: Political Not Metaphysical. In Rawls 1999, pp. 388–414. Paper first publ. in 1985.

- . IOC. The Idea of an Overlapping Consensus. In Rawls 1999, pp. 421–48. Paper first publ. in 1987.
- . PRIG. The Priority of Right and Ideas of the Good. In Rawls 1999, pp. 449–72. Paper first publ. in 1988.
- . DPOC. The Domain of the Political and Overlapping Consensus. In Rawls 1999, pp. 473–96. Paper first publ. in 1989.
- . JFR. Justice as Fairness: A Restatement. Typescript. Cambridge, Mass., 1990.
- . *PL. Political Liberalism*. New York 1993: Columbia University Press.
- . RH. Reply to Habermas. *Journal of Philosophy* 92 (1995), pp. 132–80.
- . 1999. *Collected Papers*. Cambridge, Mass.: Harvard University Press.
- Resnik, Michael D. 1987. *Choices*. Minneapolis: University of Minnesota Press.
- Rousseau, Jean-Jacques. 1755. *Discours sur l'origine et les fondements de l'inégalité*. In *Œuvres complètes*, vol. 3. Paris 1964: Gallimard.
- Schlick, Moritz. 1927. Vom Sinn des Lebens. *Symposion* 1, pp. 331–54.
- Schwartz, Adina. 1972/73. Moral Neutrality and Primary Goods. *Ethics* 83, pp. 294–307.
- Sen, Amartya K. 1970. *Collective Choice and Social Welfare*. San Francisco: Holden-Day.
- . 1973. *On Economic Inequality*. Expanded edition. Oxford 1997: Oxford University Press.
- . 1980. Equality of What? In Sen 1982, pp. 353–69.
- . 1982. *Choice, Welfare and Measurement*. Oxford: Basil Blackwell.
- . 1985a. *Commodities and Capabilities*. Amsterdam: North-Holland.
- . 1985b. Well-Being, Agency and Freedom. *Journal of Philosophy* 82, pp. 169–221.
- . 1986. The Concept of Well-Being. In Guhan/Shroff 1986, pp. 174–92.
- . 1987. *The Standard of Living*. Cambridge: Cambridge University Press.
- . 1990. Gender and Cooperative Conflicts. In Tinker 1990, pp. 123–49.
- . 1992. *Inequality Reexamined*. Oxford: Oxford University Press.
- and Bernard Williams (eds.). 1982. *Utilitarianism and Beyond*. Cambridge: Cambridge University Press.
- Sidgwick, Henry. 1874. *The Methods of Ethics*. Seventh edition. London 1907: Macmillan.
- Singer, Peter. 1979. *Practical Ethics*. Second edition. Cambridge 1993: Cambridge University Press.
- Smith, Michael. 1984. *The Moral Problem*. Oxford: Basil Blackwell.
- Temkin, Larry S. 1993. *Inequality*. Oxford: Oxford University Press.
- Tinker, Irene, ed. 1990. *Persistent Inequalities*. Oxford: Oxford University Press.
- Trapp, Rainer W. 1992. Interessenaggregationsethik. In Pieper 1992, pp. 303–46.
- Vickrey, William S. 1945. Measuring Marginal Utility by Reactions to Risk. *Econometrica* 13, pp. 319–33.
- Waldron, Jeremy, ed. 1984. *Theories of Rights*. Oxford: Oxford University Press.
- Wessels, Ulla. 1998. Procreation. In Fehige/Wessels 1998, pp. 429–70.
- Wolff, Robert Paul. 1977. *Understanding Rawls*. Princeton: Princeton University Press.
- Young, H. Peyton, ed. 1985. *Fair Allocation*. Providence, Rhode Island: American Mathematical Society. Vol. 33 of *Proceedings of Symposia in Applied Mathematics*.

ABOUT THE AUTHORS

Richard J. Arneson is professor of philosophy at the University of California, San Diego, where he was department chair from 1992–1996. Recently he has held a variety of visiting appointments at the University of California, Davis; the University of Cergy-Pontoise; Yale University; and Australian National University. He works on social and political philosophy with an emphasis on contemporary theories of justice. He has written more than fifty essays in these fields and currently is working on a book on personal responsibility and egalitarian justice.

Samantha Brennan is associate professor of philosophy at the University of Western Ontario. She has written on thresholds for rights, paternalism, feminist ethics, and feminist criticisms of rights, as well as on the badness of death and the right not to be killed. Her articles have appeared in *American Philosophical Quarterly*, *The Canadian Journal of Philosophy*, *The Journal of Social Philosophy*, *The Southern Journal of Philosophy*, *Ethics*, and *Social Theory and Practice*. With Tracy Isaacs and Michael Milde, Brennan edited *New Canadian Perspectives in Ethics and Political Philosophy* (1997). Brennan is also an editor of *The Canadian Journal of Philosophy*. Her current research includes work on children's rights and family justice (with Robert Noggle) and ongoing work on the nature and structure of moral rights. Brennan's work is funded by the Social Sciences and Humanities Research Council of Canada.

Allen Buchanan is professor of philosophy at the University of Arizona. He lectures and publishes mainly in bioethics and political philosophy. He is the author of over one hundred articles and the following books: *Marx and Justice: The Radical Critique of Liberalism* (1982), *Ethics, Efficiency, and the Market* (1985), *Deciding for Others: The Ethics of Surrogate Decision Making* with Dan W. Brock (1989), and *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (1991). He served as staff philosopher for the President's Commission on Medical Ethics, where he was a principal author of the commission's two book-length reports on ethical issues in genetics (1983). As staff-consultant for the U.S. Advisory Committee on Human Radiation Experiments, Buchanan authored the ethical framework chapter for the committee's *Final Report* (1995). He currently serves as a member

of the Advisory Council for Human Genome Research, which advises the director of the Human Genome Research Institute on goals and funding priorities for genomic research. Buchanan is also author (with Dan W. Brock, Norman Daniels, and Daniel Wikler) of a book on ethical issues in genetic intervention, forthcoming from Cambridge University Press.

Claudia Card is professor of philosophy at the University of Wisconsin. She is the author of *The Unnatural Lottery: Character and Moral Luck* (1995) and the editor of *On Feminist Ethics and Politics* (1999), *Adventures in Lesbian Philosophy* (1994), and *Feminist Ethics* (1991). She is currently writing a book on the concept of evil.

Roger Crisp is fellow and tutor in philosophy at St. Anne's College, Oxford. He is the author of *Mill on Utilitarianism* (1997) and editor of *Utilitas*. He is a member of the Analysis Committee (U.K.), which is responsible for publication of the journals *Analysis*, *Philosophical Books*, and the *Analysis Trust*.

Norman Daniels, Goldwaite Professor at Tufts University, has written widely in the philosophy of science, ethics, political philosophy, and health policy. His more recent books include *Just Health Care* (1985), *Am I My Parents' Keeper?* (1988), *Seeking Fair Treatment* (1994), *Benchmarks of Fairness for Health Care Reform* with Don Light and Ron Caplan (1996), *Justice and Justification* (1996), and *From Chance to Choice: Genetics and Justice* with Allen Buchanan, Dan Brock, and Dan Wikler (in press).

Bernard P. Dauenhauer is professor emeritus of philosophy at the University of Georgia. Among his books are *Citizenship in a Fragile World* (1996) and *Paul Ricoeur: The Promise and Risk of Politics* (1998).

Victoria Davion is associate professor of philosophy at the University of Georgia and faculty affiliate in the Environmental Ethics Certificate Program. Davion specializes in feminist philosophy, ethical theory, applied ethics, and social and political philosophy. She has published articles in a variety of journals such as *Hypatia*, *Social Theory and Practice*, and *The Journal of Social Philosophy*. She is the founding and current editor of *Ethics and the Environment*.

Christoph Fehige received his doctoral degree in philosophy from the Westfälische Wilhelms-Universität in Münster. He has worked at the Universities of Münster, Saarbrücken, Uppsala, and Leipzig, has visited at the University of Pittsburgh, and currently is a visiting scholar at Stanford University. Fehige has written on desire, welfare, and practical reason; on deontic logic and the rational foundation of ethics; and on political philosophy and the value of life. He is coeditor of *Zum moralischen Denken* (Frankfurt a.M. 1995), *Preferences* (Berlin 1998), and *Der Sinn des Lebens* (Munich 1999).

Marilyn Friedman teaches philosophy at Washington University in St. Louis. She has published numerous articles in ethics, social philosophy, and feminist theory. Her books include *What Are Friends For? Feminist Perspectives on Personal Relationships and Moral Theory* (1993); *Political Correctness: For and Against* (1995) with Jan Narveson; and three coedited collections—

Feminism and Community (1995); *Mind and Morals: Essays on Ethics and Cognitive Science* (1996); and *Rights and Reason: Essays in Honor of Carl Wellman*.

Scott Hershovitz holds an M.A. in philosophy from the University of Georgia. He is a Rhodes Scholar reading for the D.Phil. in jurisprudence at Oxford University.

Dale Jamieson is Henry R. Luce Professor in Human Dimensions of Global Change at Carleton College, adjunct scientist in the Environmental and Societal Impacts Group at the National Center for Atmospheric Research, and adjunct professor at Sunshine Coast University College, Maroochydore, Australia. For twenty years he taught at the University of Colorado, Boulder, receiving both the Dean's and the Chancellor's awards for research in the social sciences and the humanities. He regularly teaches courses in ethics, environmental philosophy, environmental justice, philosophy of biology and mind, and global change. Jamieson is the author of more than sixty articles and book chapters, is editor or coeditor of six books, is associate editor of *Science, Technology and Human Values*, and serves on editorial boards of several journals. He recently edited *Singer and His Critics* (1999). He is completing a book on the philosophical dimensions of global environmental change and editing the *Companion to Environmental Philosophy* (Blackwell, forthcoming). His research is funded by the Ethics and Values Studies Program of the National Science Foundation, the U.S. Environmental Protection Agency, and the National Endowment for the Humanities.

Claudia Mills is associate professor of philosophy at the University of Colorado, Boulder, and director of its Center for Values and Social Policy. She writes on a wide range of topics in social and political philosophy and applied ethics and is also the author of many children's books.

James W. Nickel is professor of philosophy at the University of Colorado, Boulder, where he has taught since 1982. Nickel specializes in ethics, political philosophy, and philosophy of law. He is the author of *Making Sense of Human Rights* (1987). Recent publications include "Group Agency and Group Rights" in *Ethnicity and Group Rights* (Ian Shapiro and Will Kymlick, editors, 1997) and "The Liberty Dimension of Historic and Contemporary Segregation" in *Law and Philosophy* (1997).

Robert Noggle is assistant professor of philosophy at Central Michigan University. He has written on neo-Kantian ethics, personal autonomy, manipulative actions, moral motivation, and value theory. His articles have appeared in *American Philosophical Quarterly*, *The Canadian Journal of Philosophy*, *Philosophical Studies*, *The Southern Journal of Philosophy*, and *Social Theory and Practice*. In addition to ongoing work with Samantha Brennan on the moral status of children, his current research focuses on moral theory and the role that claims about the nature of persons play in the construction and justification of moral theories.

James P. Sterba is professor of philosophy at the University of Notre Dame, where he teaches moral and political philosophy. He has written more than 150 articles and published 16 books, including *How to Make People Just* (1988),

Contemporary Ethics (1989), *Feminist Philosophies* (2nd edition, edited with Janet A. Kourany and Rosemarie Tong, 1999), *Morality in Practice* (5th edition, 1994), and *Justice for Here and Now* (1998). He is past president of the International Society for Social and Legal Philosophy, the American section; past president of Concerned Philosophers for Peace; and past president of the North American Society for Social Philosophy. He has lectured widely in the United States, Europe, and the Far East.

Clark Wolf is associate professor of philosophy at the University of Georgia. His papers have appeared in numerous collections and journals, and he is currently writing a book on intergenerational justice.