UNDERSTANDING GLOBAL INJUSTICE

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CURRICULUM VITAE

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# Table of Contents

INTRODUCTION ......................................................................................................................... 1

CHAPTER 1: CONCEIVING SOCIAL JUSTICE ................................................................................ 7

CHAPTER 2: CONCEIVING GLOBAL JUSTICE............................................................................. 35

CHAPTER 3: UNDERSTANDING INEGALITARIAN INJUSTICE..................................................... 59

CHAPTER 4: GLOBAL INEGALITARIAN INJUSTICE................................................................. 90

CONCLUSION ......................................................................................................................... 116

REFERENCES .......................................................................................................................... 121
INTRODUCTION

“We do not live in a just world,” Thomas Nagel tells us. “This may be the least controversial claim one can make in political theory”.¹ Surely Nagel is right about this. The world at large, with its severe deprivations and massive inequalities, is clearly not just. What is more controversial is that the world is, also, unjust. Or, anyway, that it is unjust in anything like the distinctive way that many existing societies are unjust. Indeed Nagel himself seems to deny this.

I argue in this dissertation that Nagel’s position is mistaken. The world is not only unjust, but socially unjust. But, perhaps despite appearances, his view is not incoherent. It can make sense to say that the world is neither just nor unjust.² Many other things are like this. The blue sky. My book club. Life. Some of these things—the blue sky—are neither just nor unjust, because the concept of social justice simply does not apply to them. Others might conceivably be just—my book club could move to Montana and become a book-club-cum-commune—but, morally, need not be. Since their lack of justice is no flaw in them, they are not unjust. It seems clear, then, that the absence of justice does not entail the presence of injustice: some things are neither just nor unjust, because their justice is inconceivable, or undesirable.³


² I often omit ’socially’, below, when context and exposition allow it; assume that by justice I mean ’social justice’, unless I say otherwise.

³ A similar point holds, probably for similar reasons, for ‘fair and unfair’; cf. here Estlund, Democratic Authority, 16f.
Nagel and his fellow travelers can say that the world at large is like this: like the blue sky, or my book club, the globe is a site where social justice is (conceptually) impossible or (morally) unnecessary. Whether this is correct depends, first, on what it takes for the concept of social justice to apply to something, and, then, on which of the things to which it applies should be just. Now, it surely is not obvious at the outset that the concept of social justice does not apply globally, or that nothing global should be socially just—perhaps the world at large is or should be sufficiently like a society so as to be a site for social justice. Skeptics about global social injustice therefore owe us some account of why the world at large is not and should not be society-like in the relevant ways.

There are many conceivable ways that a skeptic could try to show us that the world at large need not be just, in anything like the way that a single society ought to be just. However, most going arguments to this effect seem to fall within a fairly narrow range. These arguments start with the social contract tradition of theorizing about social justice, and particularly with the egalitarian social contract tradition exemplified in the work of John Rawls. They proceed by trying to show that social justice as this tradition conceives is not morally required at the global level, by linking social justice closely to the institutions of the state. Some (conceptual skeptics, I will call them) argue on social contract premises that the concept of social justice does not apply outside the state; if, as they assume, there should be no global state, it follows that nothing global should be socially just. Others (normative skeptics) claim instead that unless and until there is a global state, it is not the case that the world ought to be socially just; and this,

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4 For the purposes of theorizing about social justice (per Chapter 1, the morality of distribution), as opposed to legitimacy (the morality of coercion) or the morality of international relations; I take A Theory of Justice to be the main source for this tradition; leaving it open whether the claims made in Political Liberalism and The Law of Peoples require modifications to the conception of justice offered there.
whether or not it can conceivably be.\footnote{These skeptics, as I read them, need not assume that there should be no global state; they could allow the possibility of a just global state, while denying that there is anything global that ought to be just, when there is no such state.} Social justice, these skeptics assume, is about equality—where there are no egalitarian demands, there are no demands of social justice. And, so they argue, a social contract approach implies that egalitarian demands arise among, and only among, those who share a state. If they are right, it follows from the fact that there is currently no global state that there is currently no reason that the world should be socially just, and thus that there is no reason it is currently socially unjust.

This dissertation shows that both of these skeptical arguments are mistaken. The concept of social justice as a social contract conception understands it does apply outside the state. And so do egalitarian norms, on the best contractarian conception of the source of those norms. In fact, the most fundamental and all-encompassing feature of our social world, the state sovereignty system itself, is subject to egalitarian claims. Since this system is global, the world at large ought to be socially just. And it isn’t. Thus, it is socially unjust.

I argue for this conclusion in two steps, corresponding to the two skeptical lines the dissertation answers. Each step takes two chapters: one, to establish some claims about social justice \textit{per se}, and then another, to use these claims to rebut arguments against, and to provide arguments for, globalizing our conception of social justice and injustice.

The first two chapters concern conceptual skepticism about global injustice. Chapter 1 offers a construal of the concept of social justice as it appears in the Rawlsian social contract tradition. I argue that, to defend that tradition against powerful conceptual criticisms, we need to understand the concept of social justice as the concept of \textit{getting it right}, morally speaking, in the course of conducting a certain, distinctive, kind of distributive activity. To say what it means
to get this right, I show, we can refer to a substantive, normative, account of the purposes that
distributively significant social interaction ought to serve and the methods it ought to use to
serve them. A contract conception of these purposes and methods understands social life as a
cooperative enterprise among free and equal persons; social justice, on this account, is a matter
of properly balancing the claims persons so conceived have on the benefits and burdens of
cooperative activity.

In Chapter 2, I use this account to show that the concept of social justice applies outside the
state. I begin, however, by simply rebutting some arguments to the contrary. Contra Nagel, I
show that claims of social justice can have force even where there is no unitary agency with the
power to assure us that they will be satisfied. 6 If justice indeed requires assurance, it can be
provided in other ways. Contra Samuel Freeman, I argue that claims of social justice can be
forceful even when there is no single unified system of property law to define the sorts of things
they can be claims on. 7 Distributive justice does, plausibly, require a property system. But
property systems can and have existed outside the state. In fact, the system that makes states
possible in the first place is, I argue, itself a kind of property system, or anyway close enough to
one that the concept of justice applies to it, if it applies to more paradigmatic property systems.
So, I conclude, there is something global, other than a world state to which the concepts of
social justice and injustice can and do apply—namely, the sovereignty system that makes the
existence of separate territorial states possible in the first place.

Chapter 3 and 4 turn from the question of whether the world at large could conceivably be
socially just, in the absence of a just world state, to the question of whether it should be just,
given that no world state exists. Chapter 3 offers an argument for egalitarianism within the

6 Nagel op. cit. can be construed as making a version of this argument.

7 Freeman, “Distributive Justice and The Law of Peoples.”
state; chapter 4 shows that premises of this argument support egalitarianism outside the state, as well.

Equality matters within the state, Chapter 3 argues, because state institutions produce important goods, and are produced in turn by the relevantly equal contributions of their subjects. State institutions make particular production possible, and thereby produce opportunities to benefit from engagement in it. But state institutions themselves are products of the actions of those subject to them. To be sure, there is a sense which they are not equally the product of everyone’s actions—some contribute more to their production than others. But because state orders are imposed by all of us together, on each of individually, these factual differences in degree of contribution do not make a moral difference: those who contribute more are too responsible for the conditions that allow them to do so to claim greater returns on those grounds. Thus all who are subject to the norms of state institutions, and who comply with those norms, have prima facie equal claims on what those institutions produce.

Chapter 4 deploys elements of this account of egalitarian justice within the state to show that egalitarian norms apply outside the state, as well. It begins by considering some arguments that purport to explain intra-state egalitarianism in a manner that incurs no commitment to egalitarianism outside the state. Some of these maintain that egalitarian claims on the state come from, and only from, our role as subjects and/or agents of state coercion. Our status vis-à-vis state coercion, they say, gives us claims that state institutions be justifiable to us. Granting this, I show that there is no reason to think these claims, as such, have any specifically egalitarian upshot. Rather, equal claims on socially produced resources have to come from some relevantly equal role in the production of those resources. But, I go on to argue, state institutions are not the only institutions that produce important goods, and that are produced in

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turn by the equal contributions of their subjects. The state sovereignty system itself is produced, equally, by all members of all states; thus whatever goods it produces ought to be distributed equally.

The main argument of the dissertation, then, is that egalitarian social justice matters outside the state for the same, broadly *contractarian*, reasons that it matters inside the state. The first two chapters say what it could mean for social justice to matter outside the state; the third and fourth chapters say why it in fact does. They leave it somewhat open, however, just what social justice requires at the global level. In the Conclusion, I argue that it requires, at a minimum, that global institutions give everyone an equal opportunity to live in a locally just order. Since it is easy to see that current institutions fail badly at doing this, I conclude that global institutions are indeed seriously unjust.

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9 Cf. Sangiovanni, “Global Justice, Reciprocity, and the State.” I argue, in effect, that Sangiovanni is right about the basis of egalitarian demands within the state, but wrong that global egalitarianism cannot be grounded similarly.
CHAPTER 1: CONCEIVING SOCIAL JUSTICE

The world at large, many maintain, is unjust. If they are right, then there is a sense in which the world ought to be just, but is not just. But presumably, something should be just only if it is conceivable that it be just. One form of skepticism about global injustice, then, would be skepticism about the tenability of the concept of global justice—skepticism that there is anything that could conceivably be both global, and just.

This kind of skepticism is not very plausible, in its simplest forms. Paradigmatic, state-governed, societies, like the United States or France, can be just or unjust, and there could be a global society of this kind. Even if there isn’t yet such a society, there’s nothing wrong with the mere thought that there could be one. If there should be a global state, and there isn’t, then the world might be, for that reason, both socially and globally unjust.

A more challenging, and still partly conceptual, skeptical argument might go like this, instead: clearly, nothing is unjust unless it can conceivably be just. But the only thing global that could conceivably be socially just is a global society, in a sense that implies a global state. There should not be a global state. So, nothing global should be socially just. So, there is no global

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10 I said ‘there is a sense’ because it is not straightforwardly true that nothing is unjust unless it ought to be just; some things are unjust but ought to be neither just nor unjust. Unfortunately, we can’t spell out this sense until we get a better idea of what sorts of reason bear on whether something should be just; for which, more below. For now it suffices to note that on any sense of ‘ought’, including this-so-far-unspecified one, if something cannot conceivably have a property, then it’s not the case that it ought to have that property.
injustice. This form of skepticism is much more plausible.\textsuperscript{11} Still, we should reject its second, conceptual premise.\textsuperscript{12} State-governed societies are paradigm cases for the concept of social justice. But they are only paradigm cases. This chapter and the next, taken together, argue that other things can be socially just too, if they can do the sorts of things that state-governed societies (justly or unjustly) do.

This argument proceeds in two steps:

First, I offer an account of what we’re doing when we judge that a society is just or unjust. To judge that a society is just, I maintain, is to judge that it gives everyone their due: to judge that it gets distribution right.\textsuperscript{13} This account, I believe, is, among other things, the best explication of the conceptual commitments of a broadly Rawlsian perspective on social justice.\textsuperscript{14} My first chapter defends it as such, by showing how it can serve as the basis of a response to some objections recently pressed against the Rawlsian approach by G.A. Cohen.\textsuperscript{15} What results is an explication of the concept of social justice, on which it serves to pass judgment on the moral quality of the specifically distributive aspects of social practices. In the second chapter I show that practices other than the practices constitutive of state-based societies can have morally significant distributive aspects, and so can be evaluable at the bar of social justice.

\textsuperscript{11} Several extant skeptical arguments about global social justice might be understood to have this form; e.g. Nagel, “The Problem of Global Justice”; Meckled-Garcia, “On the Very Idea of Cosmopolitan Justice.”

\textsuperscript{12} I’ll remain neutral here as to whether we should reject its third, normative premise, about the undesirability of a global state.

\textsuperscript{13} This fits with the traditional definition of justice: suum cuique.

\textsuperscript{14} Many contemporary political philosophers take up this perspective; it’s founding text is, of course: TJ (rev). If the view presented here is a good reconstruction of the key conceptual commitments of that tradition; that’s a reason for those sympathetic to that tradition (including, all of global justice skeptics I will discuss) to accept my conceptual claims.

\textsuperscript{15} I focus in particular on the conceptual critique offered at Rescuing, 274–343.
Contra some skeptical arguments, then, these two chapters show that there is a perfectly good sense of ‘justice’ in which it makes sense to think that the world at large should be just, even if there shouldn’t be a single state-governed global society.

I begin by laying out the conceptual aspect of Cohen’s challenge to Rawlsian constructivism—the only acceptable upshot of which, I argue, is the reasonable request that the Rawlsian say what distinguishes social justice from other social values. I lay out two basic ways in which we can make this distinction. One way, the way favored by Cohen, understands justice as a particular kind of good-making feature of states of affairs, a feature having to do with whether people get their due. The other way understands justice as, fundamentally, a feature of a certain distinctive sort of social activity, a feature social interaction has when it gives people their due. By taking the second approach, I argue, Rawlsians can grant what’s right in Cohen’s conceptual critique without giving up on their basic approach to questions about social justice.

The second part of the chapter further explains how Rawlsian can go about distinguishing justice from other social values. Judgments of social justice, on this account, are judgments about the moral quality of the distributive aspects of social practices. This approach, admittedly, faces significant challenges. In particular, if interpreted as the claim that social justice is simply a matter of distributing as we ought to distribute, it is vulnerable to counterexamples, in which the way we should distribute is not the just way to distribute. E.g., cases where emergencies require temporary departures from justice, for the sake of restoring justice in the future. What’s required to respond to this challenge, I argue, is an explanation of what sorts of considerations bear, not simply on whether we should distribute in such-and-such a way, but also on whether distributing in that way would be just. I go on to provide an abstract framework for providing such an explanation, a framework which implies that different conceptions of the point and
purpose of distributively significant social practices will give rise to different accounts of which reasons are relevant to justice. This, I argue, is as it should be; since adherents of these different conceptions can share a common concept of justice, without agreeing about what distributive practices are good for. I conclude that there is reason to be confident about the coherence of this kind of explication of the concept of justice.

The third part of the chapter seeks to show that a Rawlsian understanding of the concept of justice allows us to make an important sort of moral judgment that we could not easily make with the conceptual resources Cohen and his sympathizers seem to offer us. Instead, we also need the concept I explicate here. Judgments of social justice and injustice are often reasonably treated as close to decisive considerations for or against a given policy. But they are not, quite, decisive: justice takes priority, but only presumptively. This, I argue, is just what the account offered here would predict; thus there is reason to believe that this concept should figure in our moral deliberations about how to live together in society.

So, what I will argue in this chapter is that the Rawlsian project can rely on a concept of social justice that escapes Cohen’s key conceptual criticisms, if it construes the concept of social justice as the concept of getting it right with respect to the distributive aspects of social life.

**Cohen Against Constructivism**

Rawls and Rawlsians, Cohen says, make principles of justice sensitive to considerations they should not be sensitive to. Rawlsian principles are accepted partly on the grounds of facts and values which are relevant to how much justice we can get; or how much we should want, but not relevant to what justice is in itself. So, e.g., the fact that the talented will not be as

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16 And, so, worth using to pursue an account of global social justice.

productive in the absence of disequalizing incentives does not make the resulting inequality just; it only makes it harder to achieve justice. And though a society that fails to exhibit virtues like stability, publicity, and efficiency may well be flawed, in those ways, it might still be just: justice might run at cross purposes with these other values.

Cohen thinks that the roots of these problems go deep; all the way to the constructivism that underlies the Rawlsian approach. Because the principles of justice are identified, a priori, as the principles that would result from a suitable selection procedure, they are sure to be sensitive to whatever considerations that procedure is sensitive to. But the parties to the original position (“OP”) make no distinctions among relevant and irrelevant facts and values. Cohen thinks this means that a Rawlsian approach ensures an identification of social justice with some more general idea of social goodness. This much is supposed to follow simply from the constructivism that constitutes the conceptual substructure of that approach: by identifying the answer to the question: ‘what is social justice?’ with the answer to the question ‘what principle would the parties to the OP choose?’, Rawlsians in effect identify the question: ‘what makes a society just?’ with the different question ‘what makes a society good?’.

Cohen is right to press the Rawlsian to explain the sensitivity of his principles to facts and to (apparently) non-justice values. And he is certainly right that, if constructivism identified the idea of social justice with the idea of social goodness per se, that would be a fatal flaw for it. ‘Justice’ is a specific term of social appraisal. Asking whether a society is just is asking whether it

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18 “Where the Action Is.”

19 Cf. here Rescuing 277: “Rawlsians believe that the correct answer to the question ‘What is justice?’ is identical to the answer that [...] the denizens of the Rawlsian original position would give to the question ‘What general rules of regulation for society would you choose, in your particular condition of knowledge and ignorance?’ Their answer to that question is supposed to give us the fundamental principle of justice. But in thus identifying justice with optimal rules of regulation, Rawlsian breach both of the distinctions that were drawn above [one of which is the distinction between social justice and social goodness].”
exhibits one important value; even if it does, it remains to be asked whether it exhibits others as well. But, so I argue, Rawlsian constructivism is not committed to denying this; that is, it is not committed to this (as I will call it-) *optimalism* about social justice. Asking whether something is socially just, on a constructivist approach, need not be asking whether it is socially good.

Cohen thinks that, because the parties to the OP are asked, not, ‘which principles are just’, but rather ‘which principles are best’, Rawls misidentifies the just principles with the best principles, all things considered. Cohen is mistaken here. When we ask the parties to choose the ‘best’ principles; we’re not asking them to choose the principles that are best, from our own, moral, point of view. Rather, we are asking them which principle are best *for them*. These, so the constructivist says, are the principles of justice. They will, of course be sensitive to various considerations—to whichever considerations bear on how the parties can expect to do, under practices structured by the principles in questions. But there is no antecedent reason to think that these will include *all* of the considerations that bear on whether a society is good, all things considered. Thus whether or not Cohen is ultimately correct (I show, shortly, that he isn’t), his reasoning here does not show that he is.

So—by asking: “which principles would the parties to the original position choose, for their society?” we need not be asking “which principles are best, all-things considered, for that society?”.

But what are we asking? We mean it to be something like: “which principles say whether or not that society is just?” But why be confident that we can answer this question, about justice, by answering an apparently different question, about what would result from a certain selection procedure? Cohen claims that constructivism cannot yield principles that are about justice, and not some other thing. He has not shown us this, because he has not shown us that constructivism must comprehend all social values. But nor, yet, have Rawlsians shown, to the
contrary, that constructivism can and does yield principles that capture *justice* specifically, rather than social morality more generally.

To do this, they should say what sort of question we can expect to answer, using the OP. To see this, consider the sorts of considerations that the OP reasoning allows us to take into account. The OP involves both *motivational* and *informational* restrictions: we evaluate putative principles in light of how well we can be expected to do, under them, in terms of social resources, not knowing anything about what social position we will occupy. The motivational restriction entails that the principles that result will evaluate social institutions in terms of how they affect the disposition of resources—no consideration not related to distribution enters in, given these restrictions. If, for instance, social institutions are better if they are elegantly designed, but no one has a reason to want this for the sake of advancing their own good, as they conceive it, then the original position would leave this aspect of social goodness out. The informational restrictions, on the other hand, entail that what’s at stake are the claims we have on social resources, *just in virtue* of the fact that we pursue some conception of the good or other by participating in the relevant social institutions: we know nothing else about ourselves that might affect our choice of principles.

So the question we answer with the original position is: how should the benefits and burdens of social interaction be divided among its participants, considered just as such? The principles selected are an answer to that question: they say that social resources (construed broadly, to include liberties and opportunities as well as more conventional goods) should be distributed in such-and-such a way. If they are principles of *justice*, they say that a society which distributes resources in this way is *just*. On the supposition that they are, to say that a society is just is to say: it gets distribution right. More briefly: to say that society is just is to say that it *gives each her due*. 
I will say much more about this idea of giving each her due below. First, though, I want to say something about what kind of normative concept the concept of justice is, on this view. This will help us to see just what makes a Rawlsian approach to the concept of social justice different from salient alternatives. We can begin by contrasting the Rawlsian view with the optimalism we’ve already met and rejected. Optimalism says: to judge that a society is just is to judge that it is good, all things considered. It has two components. First, it says that judgments of justice compare the strength of one sort of reason relevant to the activity of constituting our social institutions, against the strength of some other sort of reason relevant to the same. Second, it says that the reasons in question are all the reasons that bear on this activity; we compare all the reasons in favor of doing it a certain way with all reason that bear against.

The Rawlsian view affirms the first component of optimalism, and rejects the second. It maintains that judgments of social justice pass verdicts on the relative weight of different reasons; but insists that the reasons in question don’t include all of the reasons that matter to our social life. Rather, they are, only, the reasons that have to do with whether social institutions give each her due: not whether they are good, all things considered, but whether they are good at distributing.

Cohen seems to be sympathetic to a more thoroughgoing anti-optimalism about the concept of justice. Though he never states it explicitly, his view seems to be that judgments of justice do not weigh reasons against one another at all.\textsuperscript{20} The role of judgments of justice, on his view, is not to say anything about the balance of reasons that bear on the activity of distributing. It is, rather, to indicate a kind of value that a state of affairs might have, in virtue of exhibiting a certain kind of correspondence between desert and fortune. In this sense, rather than being

\textsuperscript{20}Cf. Rescuing 6f for a discussion which suggests this view.
about how well social institutions do at giving each her due, judgments of social justice are about something more like: whether everyone gets her due.

Rawlsians and Cohenians thus use the concept of social justice in very different ways. On the Rawlsian approach, it’s like the concept of admirability: its role is to evaluate how well a certain kind of activity goes. On the Cohenian approach, it’s more like the concept of prosperity: it’s role is to mark out a certain valuable feature that a situation might have or lack. Both concepts seem to be legitimate construals of the core maxim of justice: to each her due. In that sense both seem fine as candidate explications of the intuitive idea of justice.

Cohen, however, seems to think that a Rawlsian approach to the concept of social justice is fundamentally misguided. Insofar as this conviction is rooted in a mistaken imputation of optimalism, its rationale has already been refuted. But in the remainder, I want to refute the counter-Rawlsian claim itself, by exhibiting the Rawlsian explication in some detail. I begin, in the next section, by more fully explaining and defending my suggestion that judgments of social justice characteristically pass verdicts on the moral quality of distributively significant social activity. In the following section, I argue that an important practice of moral reasoning about politics requires a concept with exactly these contours; in particular, that the presumptive priority of social justice over other social values can be explained in no other way. I conclude, pace Cohen, that we can and should make use of a basically verdictive concept worth calling the concept of social justice; whether or not we can or should make use of his preferred non-verdictive concept, as well.

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As the text indicates, the differences are primarily structural; in that they have to do with the role of the concept of justice in certain kinds of practical reasoning. They also, probably, come apart in application: we might do a very good job of structuring our distributive social institutions; and in that sense give everyone their due, but find that circumstances outside of our control conspire to prevent everyone from getting what they’re due, in the sense of what they deserve. Conversely, everyone might get their due, by accident, as it were, even though we have terrible distributive practices.
Social Justice as Distributive Justice

So Rawlsians, unlike Cohenians, think that the concept of social justice essentially passes verdicts on a certain kind of activity or practice—distributing, roughly speaking. But not, presumably, just any kind of distributing. Passing out presents at Christmas is distributing; but surely this cannot be, in itself, either socially just or socially unjust. Social justice is about distributing in the specific way that societies distribute. We can ask three questions about this specifically societal form of distribution:

First, we should ask: how do societies characteristically distribute? Following a tradition going back to Hume, I think we can answer like this: when we live together in complex societies, our interactions give rise to all sorts of benefits and burdens, things reasonably regarded as worth having, or avoiding. They do this both causally and constitutively: both by making particular concrete things, and by making it possible for us to do, and to be, things we couldn’t otherwise do or be. Sometimes different people want to have (be, do) things that they cannot have (do, be) if others get what they want. In those cases they disagree, or are in conflict, about who is to have what. Societies impose methods for settling these disagreements, by coming up with rules that say how things get made, and, being made, how they get transferred back and forth. Different sets of rules result in different assignments of goods to individuals; either by affecting the total stock of goods, or by generating different allocations of given goods. So societies distribute by constituting procedures for settling competing claims on and against the goods and ills engendered by social interaction.

Second, we should ask: what do societies distribute? The answer must be: a very wide variety of things; wide enough to include, at least, liberties and opportunities as well as

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resources of a more conventional sort—wealth, food, housing, etc. Our interactions give rise to liberties and opportunities, as well as to more tangible things. And we have powerful reasons to want certain liberties and opportunities, and to want to avoid having our liberties and opportunities restricted. But sometimes these desires conflict, both within and across persons—though we can both enjoy the same liberty at the same time (liberty to speak, say), some liberties cannot be enjoyed without trampling on the liberties of others (say, if you speak so often and so loud that I can’t get a word in). So we need a system of rules to settle who gets to enjoy what, when such conflicts arise. Societies distribute liberties and opportunities, as well as resources of a more conventional sort, by constituting procedures of this kind.

Third, we should ask, who or what distributes, when a society distributes? I think there is a clear enough sense in which we can propose that the membership, taken as a collective, are the ones that distribute.\(^{23}\) They (we) do so by constituting and maintaining one among many possible profiles of distributively significant practice; since they can constitute different profiles of practice, under which different people have different things, when they constitute one among the many they count as distributing its upshots for how each does. Now, admittedly, this idea of collective action will need to be cashed out.\(^{24}\) But note for now that nothing that’s been said so far implies that there is any irreducible collective agency in the offing here: this talk of a society’s membership distributing might yet be cashed out in fully individualist terms.

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\(^{23}\) It may be that they do this, exclusively, by constituting the institutions of the state; if so, perhaps it would be reasonable to say that it is the state that distributes. But it’s not clear at this outset that sort of distributing a state does is the only sort that counts, for social justice. Suppose, e.g., that a gendered division of labor is pervasive in the society, but not legally enforced. Plausibly, the distributive effects of this division of labor are evaluable in terms of social justice; even though it’s not the state that’s doing the distributing, here. Cf. Okin, *Justice, Gender, and the Family*.

\(^{24}\) I take some step in this direction in chapters 3 and 4, by explaining a sense in which each of us is responsible for what our society does.
Judgments of social justice, on a Rawlsian view, are about the *moral quality* of the kind of *distributive activities* characteristic of societies. Which is to say: they are about the moral quality of the collective activity of constituting and maintaining a system of procedures for settling disputes about the disposition of the benefits and burdens of social interaction.

*Justice and the Wrong Kind of Reasons*

So much, for now, for the meaning of ‘distributive activities’. What about ‘moral quality’? The intuitive idea is that social distribution is a morally important kind of activity; one that can go well or poorly, morally speaking. To say that a society is just is to say that its membership is getting its distributive practices *right*, in some important (yet-to-be-explained), way. Does this mean that the judgment that something is just judges that it is distributing as it (morally) ought to distribute? It doesn’t. And seeing why not should help us to see part of what’s distinctive about a Rawlsian approach to the concept of justice, as compared to optimalism on the one hand, and to the Cohenian alternative, on the other.

To see this, consider some cases where the way we (morally) ought to structure our distributive activities is not the *just* way to structure those activities:

Suppose, for instance, that we live in a small, hitherto isolated, society, that has managed to achieve something close to social justice—decently liberal political institutions, and a relatively egalitarian economy. A distant imperial power, coveting our resources and markets, demands that we move in a less liberal/egalitarian direction, on pain of credible threats of a (for us) catastrophic war. Structuring our social life in the mandated way might well be what we (morally) ought to do; but it seems clear enough that our life together would no longer be just if we did so.²⁵

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²⁵ Even if acceding is not what we ought to do, all things considered, it seems clear that the threats give us reason to accede which are not reasons of justice.
Another example: suppose that the imperial power in question provides incentives rather than threats; and that it is willing to leave our political institutions alone. It asks only that we restructure our economic system in a significantly inegalitarian direction. Let’s suppose that, by doing so, we can make the vast majority of people in our society much, much, better off, but that the worst-off in our society will be somewhat worse-off. Though the verdicts are, admittedly, less clear here, it at least sensible to draw the same conclusion here as in the threat case—accepting the terms of the offer is the right thing to do, but not the just thing to do. Whatever the right answer is, here, ultimately, the very fact that we can seriously consider the possibility that we should do the unjust thing means that we already recognize a difference between distributing justly and distributing as we ought, all things considered. The great benefits that would accrue to most of us, if we accepted the offer, go to making it the case that we ought to do so; but they don’t go to making it the case that our life together would be just if we did.

These examples show that when we judge that something is socially just, we’re not, simply, judging that it distributes as it should distribute. Some considerations that are relevant to the morality of distribution are not relevant to justice. We might think that this pushes us back in a Cohenian direction, towards a view on which the concept of social justice has no essential ties to any particular activity or practice. Rather, such a view says, the role of that concept is to mark out certain features of a world that go to making it valuable. Injustice would result, in the examples just considered, because the world that results from acceding to the threats or accepting the offers has these value-making features to a significantly lesser extent, even if it is better in other important ways.
So there is a real pressure, here, on the Rawlsian account. The Rawlsian needs to explain the sense in which the idea of social justice is, essentially, about the balance of reason relevant to distributing; even though it’s not, simply, about distributing as we morally ought to distribute. To see how he can do this, it will be helpful to consider some closely related problems that arise in the analysis of some other normative concepts which seem to be tied, essentially, to verdicts on certain kinds of attitudes or activities.\textsuperscript{26}

Consider, for instance, cases where someone is not \textit{admirable}, even though we have ample reason to admire them. If we don’t sincerely admire the dictator, he’ll have us all killed. This (arguably) gives us decisive reason to admire him.\textsuperscript{27} But it doesn’t make him admirable. Or consider: some beliefs are not \textit{credible}, even though we (arguably) have ample practical reason to hold them. (Pascal famously thought belief in God had these features). Intuitively similar ‘wrong kinds of reasons’ problem arise for concepts tied to activities (like social distribution), as well as attitudes. Consider the concept of \textit{sportsmanship}. It obviously has something, essentially, to do with the activity of playing sports. But sometimes we have reasons to play sports in unsportsmanlike ways: say, by throwing a game, to protect you or your family from mobsters.

So the normative concepts of admirability, credibility, and sportsmanship, though clearly defined in part by reference to a certain attitude or activity, are not definable, simply, as holding that attitude or engaging in that activity as we ought to. Some considerations which bear on what we should admire, or how we should play sports, don’t go to what’s admirable, or whether playing in such-and-such a way would be sportsmanlike. These considerations are, in this sense,\textsuperscript{26}

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\item \textsuperscript{26} Up to a point, I follow Schroeder, “Value and the Right Kind of Reason.”, here; but cf. my “Reasons: Right and Wrong”, for some of the objections thereto that lead to the positive view proposed below.
\item \textsuperscript{27} Whether they actually do or not is immaterial here; as long it is coherent to think so.
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reasons of the wrong kind with respect to admirability and sportsmanship. But this doesn’t mean that these normative concepts don’t, characteristically, pass verdicts on the weight of reasons relevant to admiration, or to playing sports. What’s admirable isn’t what we have most reason, per se, to admire; but it still seems to be, in some sense, about what we have most reason of the right kind to admire. And similarly for the concepts of credibility, sportmanship, and—so I’d like to suggest—social justice itself.

How do we distinguish reasons of the “right kind”, with respect to a given normative concept, from reasons of the “wrong kind”? This is a notoriously difficult question. But I think we can make some progress on it by noticing that wrong-kinds-of-reasons problems arise in cases which are, in some important way, idiosyncratic or abnormal: so, e.g., paradigm cases of admiring and distributing don’t involve exigent threats. This suggests that (e.g.,) the concepts of admirability and social justice are about the weight of the reasons that normally bear on what to admire, or how to distribute. Of course this just pushes the question back a step: what could be meant by normal here? The idea is not merely statistical: it may be that, as a matter of fact, we nearly always have (say) intuitively credibility-irrelevant reasons for belief. Nor can it be more strongly modal: we could, in some contexts, have no reason to play a game in a sportsmanlike way.

So relevantly ‘normal’ reasons with respect to an activity can’t be the reasons we usually or necessarily have with respect to that activity. What could they be? The case of belief can be instructive here. What’s so odd about practical reasons for belief, like our putative Pascalian

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28 This terminology goes back to an early discussion of these issues, as they apply to the analysis of value in particular: Rabinowicz and Rønnow-Rasmussen, “The Strike of the Demon.”

29 Ibid. gives a sense of some of the difficulties.

30 Here I summarize a line of argument pursued in my “Reasons, Right and Wrong”
reasons to believe in God? Intuitively, it seems to be something like this: they’re not suitably related to the truth of the proposition to be believed. For belief, the wrong kinds of reasons seem to be those that don’t make the belief in question more likely to be true. This is the sense in which these reasons are abnormal: the paradigm case of believing, for the purpose of evaluating a belief’s credibility, is a case where the only reasons on the scene are truth-relevant reasons.

Why so? The answer seems to have something to do with the fact that a central aim or function of belief is to represent the truth. This is part of what beliefs are good for. And they manage to be good for this because, to some extent or other, they co-vary with our evidence. Because seeking to represent the truth in this way is a practice that matters to us, we need normative concepts to evaluate how well particular beliefs do at it. And that’s the role of the concept of credibility: to evaluate beliefs, in light of a conception of their characteristic aims and methods. Reasons for belief are of the right kind to ground credibility, if they are suitably related to the aims and methods that are characteristic of believing as an activity; they are of the wrong kind if they are not.

Generalizing from the case of belief, we get the following proposal: some concepts are constitutively tied to given attitudes or activities, not because they serve to say that instances of these things are, all things considered, as they ought to be; but rather because they serve to say that they are going as they should be going, given a conception of what they’re good for and how they’re good for it. It’s plausible enough to think that the concepts of admirability and

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31 I will be intentionally ambiguous on the status of this claim; and particularly, on whether it is mean to follow somehow from the nature of belief, or rather only from some feature of our concept of belief. I can and will also leave it open whether (as seems plausible-) this representational aim of belief is somehow derivative on the action-guiding function of our belief. Cf. here Larmore, The Autonomy of Morality, chapters 5 and 8.
sportmanship fit this model, along with the concept of credibility.\textsuperscript{32} In the remainder, I’ll offer some reasons to think that the concept of social justice fits it, too.

The proposal, then, is this: the concept of social justice is not the \textit{simple} verdictive concept of distributing as we have most reason to distribute. Some reasons that bear on how we should distribute don’t bear on justice. But these are \textit{abnormal}; in the sense that they’re not suitably related to the paradigmatic aims and methods that distributive social practices ought to have.\textsuperscript{33} This might be (as in the threat case) because the normal methods of distributive practices don’t, in a particular context, serve their characteristic aims (which surely include preventing catastrophic breakdowns in social order). Or it might be because there are situations where aims other than the normal aims of social distribution are sufficiently important so as to outweigh reasons of social justice. So the thought is, instead, that the concept of social justice is the somewhat less simple verdictive concept of distributing as we have most reasons \textit{of the right}, relevantly-aim-and-method-related, \textit{kind}, to distribute.

Admittedly, as it stands this is merely a schema for responding to the wrong-kind-of-reasons problem for the concept of justice. To say why, exactly, some reasons relevant to distributing are not reasons of justice, we need specific accounts of the aims and methods of distributive practices. However, we should expect any reasonably complete social morality that includes the concept of justice to include some such account. All normative views that deploy the concept of social justice recognize the possibility that social interaction will give rise to competing claims on its benefits and burdens. Any plausible view will hold that much of the morality of social life

\textsuperscript{32} Cf my ibid. for an argument to this effect

\textsuperscript{33} ‘Aims’ is meant to be used here in a very thin sense, acceptable even to the most deontological view; such a view could still say that distributive institutions ‘aim’ at respecting rights, or some such.
comes down to the morality of adjudicating these claims; thus any such view will think that a
good society requires practices that reliably respond to the claims in a morally adequate way.
And any complete normative view will have a conception of the facts and values that
characteristically bear on how claims ought to be adjudicated. This, in turn, will rest in part on a
conception of how the activity of balancing claims fits into the rest of social life. Taken together
this conception of the point and purpose of distributive activity can specify a normative
framework, or set of standards, for evaluating distributive activity; standards which say how
distribution ought to go if the social world is as we expect it to be.34

Difference substantive conceptions of justice will differ on the point and purpose of
distributive social interaction, and thus on the relevance of certain reasons to justice.35 So, e.g.,
a utilitarian might think that the reasons in the imperial-offer case are indeed reasons of justice;
since, so they might say, seizing opportunities to enhance overall welfare is perfectly consonant
with the purposes and methods of distributive social institutions. A more contractarian [?] view
will reject this conception of society; in favor of one on which considerations are considerations
of justice only if they are recognized by principles that are justifiable to everyone, even the
worst-off. Such a view would, so the hypothesis goes, be rooted in a certain conception of the
point and purpose of the practices we use to adjudicate competing claims in the circumstances
of justice; these practices, so the contractualist will say, ought to structure social interaction in a
way that is genuinely mutually beneficial; that is, beneficial in such a way so as to be justifiable
to everyone, in terms of their own good.

34 There are deep questions, which I cannot address here, about the kinds of idealizations and
abstractions that go to determining these expectations, viz., which facts we should use in constructing a
theory of justice; a full account of the distinction between justice and non-justice reasons would require
answers to these questions.

35 Conceptions disagree, that is, not just on which policies are social systems are just, but also on
which considerations bear on the justice of a given policy or social system.
Rawls’s view is contractualist, in this sense. We can see how, exactly, by returning, briefly, to the original position argument, and asking what conception of social distribution it reflects. Parties to the OP, remember, are asked to agree on a set of principles for determining the distribution of socially engendered goods. They do this knowing only that they will have some conception of the good that they wish to pursue; without knowing anything about its details, or about how their natural capacities suit them to pursue it. So far, this reflects a conception of distributive social activity on which its aims have something to do with allowing participants to pursue the good as they see it. Further constraints on the OP make this aim more specific. The parties must reach a unanimous agreement, giving a veto, in effect, to those that are worse-off under a given set of principles. This reflects a particular conception of the aims of social distribution, which is, so the thought goes, supposed to respect our ability to pursue our individual conceptions of the good, rather than promote average or total success in the exercise of that ability. Further, to reach his preferred principles, Rawls needs to assume that the parties to the original position are seeking principles of justice that can serve as the basis of what he calls a “well-ordered society”; a society where everyone can be confident that justice is, and will continue to be, done, because they can see that their distributive institutions are in accord with public principles of justice. So the methods used to promote respect for our agential capacities have to be, in the relevant way, public and stable.

Alternative substantive conceptions of justice will reject some or all of these commitments. In doing so, they’re disagreeing about what distributive social activity is supposed to accomplish, and how it is supposed to accomplish it. These disagreements are fundamental, and difficult to resolve. But they are genuine disagreements: they are different answers to a single, univocal

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36 Rawls comes to call this aspect of his view his ‘conception of the person and society’, e.g., at JF, 5ff; 18ff.
question. So, many substantively different conceptions of social justice can share the same concept of social justice deployed in Rawlsian theory.

That said, not all theories that claim to be theories of ‘social justice’ can be comfortably fit into this mold. Luck-egalitarians like Cohen take justice to be, essentially, about an appropriate correspondence between how we do, relative to one another, and how we deserve to do, relative to one another. However, it’s worth pointing out that a certain kind of quasi-Cohenian view might use this value as the basis of a theory of social justice in the core Rawlsian sense of the term. It might say, for instance, that the point and purpose of distributive social institutions is, simply, to ensure that no one gets or less than what they deserve. Rawlsians would disagree; they would say, among other things, that distributive practices should be tasked with making more to go around, as well as with making sure that what there is goes fairly. Our quasi-Cohenians could retort that it is not important in itself for distributive institutions, like the tax code or the structure of property relations, to produce any particular number of things; rather it is only important that these institutions distribute what they produce fairly. Since it’s hard to see how any institution which had this production-increasing role could be non-distributive, it’s hard to see how this view could say that there’s anything wrong with an impoverished society characterized by a otherwise fair distribution of goods. And that does not seem particularly plausible. But in any case it clear that there is a debate to be had here. And it is, we should now be able in a position to see, a debate that is legitimately and univocally about ‘social justice’, as Rawlsians understand the term; a debate about which reason count as reasons of social justice, in that sense, and which reasons do not.

That is, could be a practice the institution of which does not give rise to resources on which there will be competing claims grounded in the claimant’s own interests.
These are not, however, the sorts of considerations Cohen or his sympathizers would recognize as relevant, given the way they deploy the term ‘social justice’. They can say that by ‘social justice’ they simply mean ‘no one getting more or less than they deserve’; if that is what they mean, then considerations concerning how much there is to go around lack even *prima facie* relevance—there is no debate to be had about whether they are, in themselves, reasons of justice. So the Rawlsian and the Cohenian use ‘social justice’ to denote different concepts. But though this shows that they may not always be disagreeing, when they think they are, it is not enough to show that they do not have any important disagreements at all; nor indeed, that they do not have any important disagreement about the concept of social justice. For it might be that, though these concepts are both coherent, only one is actually worth using. In the next section, I argue that this is not the case: that there is reason to go on using both concepts, so long as we are careful not to confuse them.

*The Priority of Justice*

So there is a coherent concept of social justice, as getting distribution right, with respect to reasons appropriately related to the aims and methods of distributively significant social practices. Many going debates about social justice can be understood in these terms. This provides *some* evidence that *something like* this concept is common ground among many different substantive views posed in terms of language of social justice. Not all such views, of course. There is still a basic conceptual difference between this construal of the concept and the construal that seems to be favored by Cohen and his sympathizers. They reject the thought that judgments of justice judge the relative weight of even a restricted class of reasons, insisting instead, that they serve only to indicate that reasons of a certain kind are on the scene, without in any way indicating their weight. In their more strident moments, they suggest that this is the
only interesting sense of the concept of social justice—that there’s no reason to go on using the concept as Rawls and Rawlsians use it.  

We should not accept this suggestion. Without something like the concept of social justice, as I’ve explicated here, we can’t make sense of important features of our practices of normative reasoning about politics. In particular, we need a concept of social justice that is *verdictive*, in the way that this concept is *verdictive*, if we’re to make sense of the *priority* considerations of social justice sometimes have in evaluating proposed social systems of policies.

“Justice”, Rawls famously said, “is the first virtue of social institutions, as truth is of systems of thought: a theory however elegant and economical must be rejected or revised it if is untrue; likewise laws and institutions must be reformed or abolished if they are unjust.” Or, at any rate, Rawls goes on to say, claims like this “seem to express our intuitive conviction of the primacy of justice” even though, he says, “No doubt they are expressed too strongly.” This priority claim, I maintain, is presupposed by an important kind of normative reasoning, which we should not give up. In particular, it is presupposed whenever our debates about justice occur at a short remove from debates about policy. And this is often the case; often, when we conclude that a policy would be unjust, we take this to be reason enough to reject it. As Rawls’s qualification suggests, there may be some exceptions to this rule. But by and large, we tend to treat social justice as a value which has *presumptive priority* over other social values—the fact that a social institution is unjust is typically taken, without further argument, to be sufficient reason to reject it. So far as I can see, there is little or no reason to think that there is anything wrong with this sort of reasoning; we can, I will show, explicate the concept of social justice in a way that vindicates it. And much of what value seems to have been accomplished using it;

38 Cf., eg. Rescuing, 204f.

39 *TJ* 3-4.
particularly, practically anything of value that has been accomplished at the interface of Rawls-
inspired theorizing about justice and actual political practice.

It’s worth emphasizing that the priority justice gets in this sort of reasoning is not absolute. It is at least conceivable that there are some cases where a society ought not be just. But this is exactly what my account predicts. Judgments about social justice are at two removes from judgments about how societies ought to be constituted. Some institutions and practices which distribute, do other things besides; and sometimes it matters more that they do these things right than that they get distribution right (think, here, of a university). And, as the discussion in the last section showed, even where distribution is clearly the most important function of a thing (a property system, say), there are sometimes sufficient reasons for it to distribute in an unjust way.

This means, among other things, that where social justice is indeed prior to other social values, this is in large part a substantive, normative, matter. It’s because it matters a lot, there, that we get distribution right, with respect to the right kind of reasons. That said, there is still something conceptual about the priority of social justice. If we are sure that we have a case where distribution matters most, and we are confident that conditions are relevantly normal, then there is no further question as to whether an unjust practice might not still be acceptable, all-thing-considered. This is not the same things as being sure that justice is decisive, when everything else is equal—anyone who regards justice as a value, of any kind, can agree with that. Rather it is say that if we’re confident that certain things are equal, that certain, specifiable, conditions are in place, then we can be confident that the recommendations of justice are decisive.

Thus, one important kind of reasoning, expressible in the language of social justice, takes there to be certain clearly specifiable conditions under which it is not an open question whether we should maintain an unjust society or impose an unjust policy. Since there is nothing wrong with the practice of according justice this sort of immediate, indeed analytic, priority, we should expect our account of the concept of social justice to vindicate this practice. And among the three conceptual accounts considered here – Optimalist, Cohenian, and Rawlsian – only the Rawlsian has any hopes of doing so.

Optimalism, the view that the concept of social justice just is the concept of social goodness, clearly can’t explain this. It affirms too much priority for social justice; and makes that priority too much a conceptual matter. By implying, conceptually, that a society is just if and only if it is good, all things considered, optimalism prematurely forecloses the possibility that a society might have morally important non-distributive functions; or that some societies might be in the sort of abnormal conditions where they should distribute unjustly.

Cohen’s view has the opposite problem. Optimalism always implies that a society is unacceptable (all things considered) if it is unjust. Cohenism never implies this. To think that a society is just, in a Cohenian sense, is to think that people in it get what they’re due. But this is, as Cohen would admit, just one of many values that might bear on how we should distribute. So even where we’re sure that a society’s distributive aspects are of paramount moral importance, and that those are operating under relevantly normal conditions, we can’t be sure that that society is unacceptable, all things considered, if it is not just. Even if it is not just—even if it does not contribute appropriately to everyone getting what they are due—it might yet be redeemed by other virtues. This puts reasoning about justice at a large remove from reasoning

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41 Rescuing 301f.
about what to do, in practice; there is always a further question about whether there are values besides Cohenian justice on the scene.

The Rawlsian explication offered here does better than both alternatives, in these ways. Because it maintains that justice is only about distributive morality, and then only about distributive morality in normal conditions, it allows that societies or social policies might conceivably be acceptable, without being just, if something matters more than distribution, or if conditions are not relevantly normal. But unlike Cohen’s account, it does so without giving up on the intuitive idea that there are (non-trivial) conditions under which it is not an open question whether we should implement unjust policies or practices. Where we’re sure that distribution matters most, and that conditions are relevantly normal, we can be confident that social justice has priority over other social values. Without this confidence, it is badly unclear how we are supposed to pass from judgments about justice to judgments about what to do. Rawls’s account can vindicate our confidence in the priority of justice; Cohen’s account cannot. We should count this as a powerful reason not to abandon the conceptual resources afforded by a Rawlsian approach to social justice.

Where does this leave the debate between Rawls and Cohen, as to how best to understand the concept of social justice? Clearly, it does not settle it. Even if there is a legitimate usage of the

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42 And conversely, contra optimalism, it allows that just societies might not be adequately good; if they distribute well but fail to do well at other important tasks (promoting human excellence, say).

43 Non-trivial in the sense that: they are not conditions described directly in terms of what the account identifies with justice itself; as they would be if we said the analogous thing on a Cohenian account: “justice has priority when we’re sure that everyone’s getting what they’re due matters most”.

44 A brief, non-exhaustive review of Rawls-Cohen debates on which nothing that’s been said here bears directly: (a) debates about the currency of justice (e.g., resources vs. welfare); (b) debates about how to understand the value of equality; (c) debates about the justice of disequalizing incentive-seeking behavior; (d) debates about the relevance of facts to fundamental principles; and (e) debates about what principles of justice are, and whether it makes sense to render them sensitive to facts and to non-justice
concept which implies that justice has presumptive priority over other social values, there may be other usages besides, which don’t have this implication. Cohen’s approach might yet capture these uses better than Rawls’s.

So, e.g., we might think that there is a kind of justice which might be utterly out of our reach: a justice that we can’t achieve, no matter how good we get a constituting distributive social practices. It may be that we need a Cohenian concept to capture the kind of justice that might, conceivably, outrun our abilities entirely.

I think we should be happy enough to grant that ‘justice’ might have such a sense. ‘Social justice’ seems like a poor name for it, though, since it’s not essentially about societies or what societies do. ‘Cosmic’ justice might be a better label—where social justice is about justice in the real collective activity of constituting social relationships, cosmic justice is about justice in the imaginary activity of constituting a cosmos as a whole.

So, e.g., it might be a cosmic injustice that nothing we can do together can make it the case that everyone gets their due; but it cannot be a social injustice, since by stipulation it is not the result of something that a society does.

I see no reason to deny the cogency of questions about cosmic justice. Indeed, it may be that the value of cosmic justice weighs importantly in the balance of the right kinds of reasons relevant to distributing. But even if so, questions about cosmic and social justice are clearly separate: we ask, first, whether a particular society or social policy helps to ensure that differences in how people do depend only on differences in how they deserve to do, and then,

values. That said, I use this conceptual account to address some of these issues elsewhere: (a) and (b) in chapter 3, on equality; (d) and (e) in a separate paper on the nature and purpose of Rawlsian principles of justice.

Cf e.g. Rescuing 250ff.

Contra Cohen at ibid. 261, it seems to me that this is the sort of thing Rawls is referring to when he discusses the “ethics of creation” at TJ 137f.

Cf n12, above, for a case where cosmic and social justice come apart.
second, whether there are other reasons (of the right kind) which bear as well. Perhaps sometimes (always) other things matter; perhaps they never do. But even if they don’t—even, implausibly, if reasons of cosmic justice are the only reasons that ever bear on social justice in the Rawlsian sense—it remains that cosmic and social justice are different things: social justice is still about the balance of reasons, even if reasons of cosmic justice are the only reasons that weigh in that balance.48

The goal of this chapter has been to develop and defend an explication of the concept of social justice as that’s been used in recent, Rawls-inspired, political philosophy. I’ve done so by showing how a Rawlsian approach can be elaborated so as to respond to some Cohenian objections. What’s required to respond to these, I’ve maintained, is an account which shows how social justice is distinct from other social values. The key to seeing this, I’ve argued, is to see that all social justice is, in a way, distributive justice: the concept of social justice is the concept of getting it right, when we distribute in the distinctive way that societies distribute. This approach faces significant challenges from cases where the best way to distribute doesn’t seem to be the just way. I’ve responded to these challenges by arguing, on the basis of an analogy to similar problems for other normative concepts, that reasons relevant to distribution are relevant to justice just in case they are suitably related to the characteristic aims and methods of social distribution. What results is an account of the concept of social justice on which it serves to pass judgment on the distributive aspects of social practices, considered just as such. I concluded by showing how this account is uniquely poised to explain the presumption that justice has priority over other social values.

48 Compare: that he was seen hastily leaving the scene of the crime is a very strong reason to think that he committed it; but it’s a further fact that this is a decisive reason to think so (the latter has implications concerning the force of other reasons to think so; the former does not)
What results most immediately from these arguments is a response to Cohen’s charge that the Rawlsian approach to social justice is conceptually confused, or superfluous. It is not. This, of course, is interesting in its own right. But in the context of the larger project of the dissertation, its interest lies in what it can tell us about the conceivability of global social justice. In the abstract, it tells us that the world at large might conceivably be socially just, if something global might conceivably distribute in the way that a society distributes. It seems clear that something might; since a single state might come to cover the whole world. It’s less clear that the world could be globally socially unjust in any other way—whether, that is, anything global, other than a global state, could conceivably be socially just.

In the next chapter, I use the account developed here to show that global practices could conceivably be socially just even in the absence of a global state.
CHAPTER 2: CONCEIVING GLOBAL JUSTICE

The world as a whole exhibits severe inequalities in the distribution of rights, opportunities, and resources. Many philosophers believe that inequalities of this kind would reflect severe injustice, if they were to occur within a single society. We might, then, want to know whether the world, at large, is unjust, in something like the distinctive way that societies can be unjust.

Now presumably, the world as a whole is not socially unjust unless the world as a whole could, in principle, count as socially just. A prominent strain in the recent literature denies the possibility of global social justice, on partly conceptual grounds. Admitting that there might, conceivably, be a global society, if there were a global state, this line of argument (a) insists, on conceptual grounds, that global social justice can only be conceived as the justice of a global state; and also (b) denies, on normative grounds, that any such state could be just. Granting the second premise, for the sake of argument, I address the first, conceptual, premise, here.

Drawing on standard characterizations of the circumstances constraining the applicability of the concept of social justice, I show that existing arguments fail to establish any essential conceptual tie between social justice and the state. So we have little reason to doubt that the world can be just without a world state. Further, I go on to argue, the world could conceivably be just or unjust without any states at all. Supposing that state-constituted property systems are paradigm cases for social justice, I show that the system of state sovereignty itself is justice evaluable in

49 I won’t recite the litany here; suffice it to say that these inequalities are extremely large; and involve extreme deprivation in absolute terms. Cf. here, Pogge, World Poverty and Human Rights.
much the same way. I conclude that the existence of states as we know them may well be unjust in itself.

In the first, largely negative, part of the paper, I consider two basic lines of argument for the inconceivability of social justice outside the state. Each foregrounds one function of the state as a sine qua non of social justice. The first argument, due to Nagel, insists that the executive functions of the state are an essential background condition for social justice: nothing can be socially just in the absence of the kind of unified coercion that only states can provide.\textsuperscript{50} The second argument, due to Freeman, focuses on the legislative functions of modern states along with their executive (and judicial) functions, insisting that nothing can be socially just in the absence of the kind of authoritative rule-systems that only states can provide.\textsuperscript{51} Each argument has two premises: first, that nothing can be just or unjust unless it has a certain feature; second, that only things that are, or are suitably related to, states, can have that feature. In each case, I cast significant doubt on one or the other of these premises: arguing, first, that non-coercive practices can be just, and second, that non-state practices can provide the sort of rule-systems needed for social justice.

In drawing out these negative points, we’ll learn some lessons that will help us to see how we can conceive global social justice without a global state. This will help in developing the more positive claim of the second part—the claim, as we might put it, that there might be a global society, in the (stipulative) sense of something to which the concept of social justice might apply, even if there were no global state. Or, even, if there were no states at all.

The kind of skepticism about global justice and injustice I’ll be concerned with here is conceptual: it rests on the claim that the concept of justice doesn’t apply outside the state. Non-

\textsuperscript{50} Nagel, “The Problem of Global Justice.”

\textsuperscript{51} Freeman, Justice and the Social Contract.
conceptual skeptical arguments might not presuppose this. They might allow that non-state institutions can conceivably be socially just, but argue that only state institutions ought to be. I address some non-conceptual forms of skepticism elsewhere (in chapters 3 and 4); here, I focus only on conceptual versions.

To evaluate these claims about the applicability-conditions of the concept of social justice, we’ll need some sense of the content of that concept. Probably the concept of social justice can be used in different ways. But proponents of conceptual skepticism about social justice tend to follow a broadly Rawlsian/Humean usage, on which we understand the concept of social justice as the name for a solution to a certain practical problem. The idea here is that certain sorts of interactions give rise to things rationally regarded as worth having, or avoiding. In some such cases, how exactly we interact makes a difference as to who gets what; in some of those cases, we can expect there to be disagreement about who is to get these benefits and bear these burdens. People will, then, press claims. Social justice obtains when those claims on benefits and burdens are adjudicated in a morally acceptable manner.

If this is what we talk about when we talk about ‘social justice’, what are we saying when we say that the concept of social justice doesn’t apply outside the state? We must be saying that the problem posed by the circumstances of justice—the problem to which social justice stands as a solution—doesn’t arise outside the state. This might seem prima facie implausible. The

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52 Perhaps, because properly ‘social’ justice is egalitarian, and egalitarian norms only apply between those co-subjected to suitably unified coercive systems, or those who are co-involved in a state legal system. Nagel op cit. suggests the first line in places; also cf: Blake, “Distributive Justice, State Coercion, and Autonomy.” For the second line cf., among others Sangiovanni, “Global Justice, Reciprocity, and the State.” I address these and similar substantively skeptical arguments in chapter 4 of my dissertation.


54 I defend this account of the concept of social justice in chapter 1; particularly as against an alternative usage that has become current in the literature around luck-egalitarianism; for that cf. Cohen, Rescuing.
state seems to be at worst a necessary condition for solving the problem, not for posing it at all. Notice, though, that calling something a problem seems to imply that we can do something to solve it. It may be a bad thing that people die; but even if so that doesn’t make our mortality a ‘problem’ in the relevant sense. If we could be convinced that the problem posed by the circumstances of social justice can’t conceivably be solved outside the state, it would, then, not be unreasonable to infer that the problem doesn’t even arise where it can’t be solved by a state. Something like the circumstances of justice might obtain there, but that wouldn’t pose a problem, and so, the concepts of justice and injustice would not apply.

So, at any rate, a defender of this sort of skeptical argument might maintain—that the concept of social justice does not apply, where the problem posed by the circumstances of justice cannot be solved. I’ll grant this point, for the sake of argument. I want to focus, instead, on the claim that the problem posed by the circumstances of justice can’t be solved without a state. This must come to the claim that there’s something that only states can do, and that has to be done if we’re to find a morally adequate way of adjudicating competing claims on socially engendered benefits and burdens. To evaluate this claim, we’ll need some sense of what states characteristically do. Here I’ll work under the assumption that a state is a set of practices that imposes, interprets, and coercively enforces a legal system over a certain defined territory. As we might put it: a state is, perhaps inter alia, a set of practices that combines various legislative, judicial, and executive functions.

The claim of the conceptual skeptic about global justice, then, is that we can’t conceive of a solution to the problem posed by the circumstances of justice that doesn’t involve a practice that conjoins all of these functions. All of the skeptical arguments I consider here defend this claim. But different arguments emphasize different functions. Some take the executive, or

55 Cf. among other places Weber, Economy and Society, 54ff.
coercive, aspects of state power as the essential enabling condition for social justice; some, on the other hand, focus on the state’s rule-making and rule-interpreting functions. In the remainder, I’ll address arguments of each kind—showing, to the contrary, that the genuine problems to which state legislation, coercion, and adjudication stand as solutions can in principle be solved in other ways.

**Social Justice and the State: Coercion**

Several authors have claimed that the concept of social justice doesn’t apply outside of a state, because we can’t have social justice without the kind of coercion characteristic of states.\(^{56}\)

So, e.g., Nagel:

> What creates the link between justice and sovereignty is something common to a wide range of conceptions of justice: they all depend on the coordinated conduct of large numbers of people, which cannot be achieved without law backed up by a monopoly of force. (115)

‘Sovereignty’ in the relevant sense implies ‘law backed up by a monopoly of force’. Nagel maintains that no practice can solve the problem posed by the circumstances of justice unless it is situated within a practice that involves this sort of executive coercion. This, it turns out, is because the relevant ‘coordinated conduct’ cannot be secured reliably without a solution to an assurance problem. The structure of the problem is roughly this: suppose that we all accept that everyone has sufficient (moral) reason to coordinate justly if they can be confident that everyone else will coordinate justly too. These conditional reasons can’t be deconditionalized unless we’re confident that everyone else’s reasons are deconditionalized as well. That is, even assuming that people will generally act on their justice-related reasons, these reasons don’t become operative for anyone who’s not confident that others will act on them too. Weighty as

\(^{56}\) Nagel, *op cit.*, can be read this way; as can Meckled-Garcia, “On the Very Idea of Cosmopolitan Justice.”
justice is for us, it doesn’t require us to be suckers—to comply with rules even when many others are not themselves complying with them. Thus, Nagel says, a solution to this assurance problem is needed “even in a community most of whose members are attached to a common ideal of justice” (116). And from this, he concludes that:

The kind of all-encompassing collective practice or institution that is capable of being just in the primary sense can exist only under sovereign government. It is only the operation of such a system that one can judge to be just or unjust. (Ibid)

This argument has two premises: first, that no practice can be just unless it solves the relevant assurance problem; and second, that no practice can solve this assurance problem unless it is or is involved in a certain sort of all-encompassing coercive system. It concludes that the concept of social justice does not apply in contexts lacking sovereign coercion.

The claim that justice requires assurance is somewhat dubious; the claim that assurance can only be provided coercively is much more so. Taking each in turn—

**Justice without Assurance?**

Nagel claims that nothing can be socially just unless it solves a kind of assurance problem. Which is to say: no practice can solve the problem posed by the circumstances of justice unless it provides its participants with assurance that it is indeed adequate, and indeed in place. This is not at all obvious on its face. But we can imagine a not-implausible argument for it. People need a conception of justice, after all, to settle their competing claims: to determine who gets what in a way that everyone can be, at least minimally, satisfied with. A ‘solution’ that cannot provide this sort of satisfaction, so the thought must go, is not sufficiently different from the problem so as to count as a genuine solution to it. And without assurance, we can’t have this satisfaction, even if everyone is as just as it is reasonable to ask that they be. We know that justice does not require us to be suckers, and know that everyone else knows it too. So, we know that we can’t
count on others, even just others, to behave justly, unless we know that they know that they can count on us, as well.

This may be right, so far as it goes. But it doesn’t go far enough to establish the claim that just practices have to be capable of solving their own assurance problems. It shows, at most, that participants in just practices have to be reasonably confident that just practices are, and will continue to be, in place. The requisite confidence can be provided by mechanisms internal to the practice, which publicly ensure that everyone else has reason to comply. But there’s no reason to think that it can’t, conceivably, be provided in other ways. Confidence might be provided by some other set of practices, as when adherence to secular laws is motivated by adherence to distinct religious obligations—‘render unto Caesar’. Or it might not be provided by practices at all: we might simply see that everyone we happen to live with has a powerful sense of conscience, so that the prospect of punishing guilt from defection always outweighs any potential benefits.

As we might put it: there may be a sense in which justice can’t be done unless it can be seen to be done. But that doesn’t mean that nothing can do justice unless it can itself show us that it has—something else might show us this, or we might just see it without needing to be shown.

**Assurance without Coercion**

There is some reason to doubt, then, that just practices must be themselves capable of solving the assurance problems to which they give rise. But even granting that they must, there is even stronger reason to doubt that these assurance problems can only be solved by sovereign coercion.

Nagel claims that assurance cannot be provided by a practice except by way of “law backed up by a monopoly of force”, and this “even in a community most of whose members are attached to a common ideal of justice”. We need sovereign coercion “both in order to provide
“terms of coordination” and because “it doesn’t take many defectors to make such a system unravel.” (115). The idea is that the only way that a practice can make us reasonably confident that others will comply with its terms, confident enough that we ourselves will have reasons of justice to comply, is by making it public knowledge that defection will reliably occasion coercive penalties. This is in the first instance an informational problem: we need confidence that others have reason to comply with just practices, if we’re to have reason to comply with them ourselves. That means that, in another sense, it is a motivational problem: we need information about the justice-related motivations of others, if we’re to be motivated by justice ourselves.

State coercion can undoubtedly be a solution to this problem. If I know that defection from the rules of a given practice will reliably occasion coercive penalties, penalties which people generally take themselves to have reason to avoid, and I know that people, at least in general, will tend to do what they take themselves to have most reason to do, then I know that defection will be rare, and can comply myself without worrying about being a sucker. But there’s no reason to think that this is the only conceivable way for a practice to provide the relevant information about motivations. All that we need here is something that gives us confidence that others take themselves to have reason to comply. As a conceptual matter, this might just as well be provided by a publicly known system of rewards for compliance as by a system of penalties for defection: the cases are exactly symmetric. Or, it might be provided, at least in part, by ‘penalties’, but only by non-coercive penalties. This possibility is particularly salient if we assume that most people have an effective sense of justice. Even granting (as, I’ll show shortly, we shouldn’t ultimately grant) that justice-motivations will sometimes fail to be sufficient in themselves to produce compliance with just rules, motivations like our desire not to be seen as
unjust by our peers may well be capable of making up the difference. Where this is so, a practice of publicly shaming defectors, simply by identifying them as defectors, may well be sufficient to produce confidence that others will be motivated to comply.

Thus, though state coercion can be a sufficient condition for solving the assurance problem, there’s no a priori reason to think that it is always a necessary condition—it’s easy enough to think of non-coercive conditions that seem sufficient for solution by themselves.

A proponent of the assurance argument might be tempted to insist, in response, that non-coercive solutions to assurance problems are only notionally available. As Nagel says: “It doesn’t take too many defectors to make the whole system unravel”; perhaps the thought is that, in practice, there will always be too many defectors who can be deterred only by coercion. But even if this is right, it’s not clear why it should matter, here. Perhaps non-coercive justice is not likely to obtain, given the way people actually are. But this doesn’t show that it’s not possible, given the way people could be. And that’s what we would have to show if we wanted to show that the problem posed by the circumstances of justice is so intractable without coercion that it doesn’t even arise as a problem, properly speaking, outside coercive contexts.

We can conclude, then, that considerations of assurance don’t show that social justice is inconceivable without sovereign coercion, and so don’t show that social justice cannot obtain where coercion could not be just (as, we’ve granted, in the case of a world state). This is not to

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57 This might be understood as a form of ‘social coercion’. Maybe, but note that even if it is in some sense coercive, it’s not coercive in the way that states are, paradigmatically, coercive—and that’s what matters here.

58 This is less infeasible than it sounds: imagine a legal system that functions much like our own for the purposes of determining guilt/liability, but which imposes no punishments beyond publicizing its verdicts.

59 James op. cit. may be read as taking this line; though not in pursuit of the conceptual skepticism under examination here.
say that considerations related to considerations of assurance don’t have a role to play in an account of the conceptual scope of social justice. Plausibly, the problem posed by the circumstances of justice isn’t adequately solved unless the parties to that problem can be reasonably confident that an adequate solution to it is in place. Although this does not require that every just practice provide assurance, it might yet require that every practice that does not provide assurance be situated within a practice that does. But there is no reason to think, a priori, that this assurance has to be provided by way of sovereign coercion. Assurance could be provided instead, say, by way of a social practice that publicly identifies defectors, and then relies on the operation of a well-developed sense of justice, and a concomitant sense of the shamefulness of injustice, to provide disincentives against defection. That could suffice to satisfy the conditional antecedents of our reasons of justice; by giving us enough confidence that others will act justly so as to make it rational for us to act justly ourselves.

**Justice and the State: Property**

As we’ve seen, some think that the concept of justice presupposes a problem of assurance insoluble without the state’s coercive powers. This kind of skepticism about global social justice focuses on the thought that any solution to the problem posed by the circumstances of justice must be capable of settling competing claims as to who is to have what. A second kind of conceptually-based skepticism about global social justices focuses on the thought that any solution to the problem of justice must be capable of making it the case that claims on the benefits and burdens are genuinely satisfied—so that, when claims are settled, what results is a situation in which someone has something. The thought here is that the state is a sine qua non of social justice because only state institutions can define the sort of property system capable of constituting the kind of control of social resources we’re clamoring for, when we make our competing claims.
Sam Freeman is a prominent defender of something like this skeptical line. So, e.g., he says:

Basic social institutions and legal norms that make production, exchange, and use and consumption possible are political products [...] Since these basic social institutions are social and political it should follow that distributive justice is social and political. If so, then in the absence of a world state, there can be no global basic structure on a par with the basic structure of society. (306)

The sorts of ‘basic social institutions’, including especially ‘legal norms’, that make ‘production, exchange, use, and consumption possible’ are, Freeman thinks, essentially political products: products of the legal systems of states. So the concept of social justice applies in the first instance to these sorts of systems, and only secondarily to systems of other kinds:

Of course there is global cooperation, and there are some global institutions, but these are not basic institutions. Rather, global political, legal, and economic arrangements are secondary institutions and practices: they are largely the product of agreements among peoples and are supervenient on the multiplicity of basic social institutions constituting the basic structures of many different societies [...] Consequently, the only feasible global basic structure that can exist is also secondary and supervenient: it is nothing more than the basic structure of the society of peoples. (306)

Freeman’s conclusion is, in one sense, more moderate than Nagel’s. Freeman grants that there might be such a thing as global justice; but he insists that it could consist in nothing more than the justice of a just system of domestically just states. The justice of such a meta-society would be ‘secondary and supervenient’, merely a reflection of the fact that its internally just parts interact justly with one another. Global justice could thus, in one sense, be justice ‘outside the state’, justice that extends beyond the boundaries of the state. But, according to Freeman, global justice could not exist independently of the state: if global institutions are just, that’s only because they are the result of just interactions among just states. For that reason it’s not clear that global justice could be social justice, in any interesting sense: social justice is a property of

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60 At, among other places: “Distributive Justice and The Law of Peoples.”
the basic institutional orders of states, while global justice is merely a matter of just interaction among just states.61

Despite these differences, Freeman’s argument does share the structure of Nagel’s in at least one important respect. Nagel argued that no practice can be socially just unless it is, or is contained within, a practice that involves the sort of executive coercion characteristic of states. As I’ll interpret him, Freeman argues that no practice can conceivably be socially just unless it is, or is suitably related to, a practice that involves the sort of enforceable legislative and judicial authority characteristic of states.62 Coupled with the further claim that a global state would be unjust, it follows that the world at large can’t be socially just, and thus that it is not, presently, socially unjust.

To derive this strong conceptual conclusion, the argument would need strong conceptual premises. Nagel argues that assurance is a *sine qua non* of any solution to the problem posed by the circumstances of justice, and that only states can provide this assurance. Freeman, as I understand him, argues that an authoritative property system is a *sine qua non* of any solution to the problem posed by the circumstances of justice, and that only states can provide property systems. In Nagel’s case, neither premise was particularly plausible. In Freeman’s case, the first premise is much more plausible than the second: it’s plausible to think that something like a property system is a conceptual prerequisite of social justice. But, I’ll argue, it’s not at all plausible to think that property systems cannot exist outside the state.

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61 Freeman takes this to be the view offered by Rawls himself in *The Law of Peoples*; I won’t dispute this interpretive claim here.

62 To be fair to Freeman, his discussion sometimes suggest that he’s open to the *conceivability* of non-state social justice; but skeptical only about its *feasibility*. (Perhaps the same could be said about Nagel; cf. the concluding paragraphs of op. cit.) Still, as we’ll see, some remarks suggests the stronger, conceptual line; in any case, that’s the line I’ll consider here.
Justice without Property?

The problem posed by the circumstances of justice, remember, is to institute a morally adequate method for adjudicating competing claims on interactively engendered benefits and burdens. Since social justice is, by definition, the solution to this problem, conceptual prerequisites for social justice are necessary conditions for the problem to arise as such—that is, as something for which there is a possible solution. The Nagelian argument considered above was premised on the thought that a certain sort of confidence was a conceptually necessary condition for any possible solution to this problem—competing claims aren’t settled, in the relevant sense, unless claimants can be satisfied that their claims have been answered. The Freemanite argument in question here is premised on a slightly different thought. The kind of claims constitutive of the circumstances of justice are, in part, claims to be recognized as having or possessing certain goods. The relevant kind of possession comes to a kind of control: what we want, when we want things in the circumstances of justice, is control over these things. And, so the thought goes, this kind of control requires the social constitution of reasonably secure de facto rights in a thing, rights of the kind that can only be constituted by a functioning property system. Put another way: the problem posed by the circumstances of justice is to determine who has what; and, so the thought goes, a property system is a conceptually necessary condition for anyone to have anything.

This thought is plausible enough. Mere de facto control over a thing, unbacked by recognized social norms, is inherently tenuous and indeterminate, so much so that it can’t be the kind of control we’re asking for when we press claims in the circumstances of justice. Socially unrecognized control is tenuous, because people are roughly equal in power, and hence in their

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63 To be clear: the control we’re asking for needn’t be the very broad sort of control (‘ownership’) involved in a ‘private’ property system; justice is conceptually consistent with a system in which property rights are much more attenuated than this. Cf. here Christman, The Myth of Property.
ability to deprive others of de facto control. What we (reasonably) want when we want resources is, really, reliably useful control over those resources; this cannot be secured unless we’re confident that others will respect that control. Socially unrecognized control is indeterminate because, in the absence of recognized norms governing the limits of our rights in things—including, especially, rights that determine how we can combine and exchange the goods we control with goods controlled by others—we can’t know what we’ll be able to do with what we have.

So: what we want when we want resources is to be able to rely on those resources in planning our lives and advancing our aims; we can’t do this unless and until we know what our control over those resources will allow us to do. Justice, however, is about solving the problems that arise when different people want control over the same resources. But then this problem isn’t really solved unless our claims to control resources are socially recognized: unless, that is, there are widely respected practices in place that make a space for us to use our resources as we wish to advance our ends. So, we can say, a practice that leaves our control over resources tenuous and indeterminate in these ways is not sufficiently different from the problem posed by the circumstances of justice so as to count as a solution to it.

It is plausible enough, then, that justice requires a particular sort of social practice to determine the limits of our rights to control resources, and then to make reliable our expectation that our right to control within those limits will be respected by others. But even granting this, it doesn’t follow, as Freeman claims, that this sort of practice has to be, or to be suitably related to, the kinds of practices characteristic of states. That is, from the claim that property of the relevant kind is essentially social, it doesn’t follow that it is essentially political—

**Property without the State**
The Freemanite argument in question here claims that the kind of property system needed for a genuine solution to the problem posed by the circumstances of justice must be grounded, ultimately, in the legal system of a state.\(^{64}\) Without a state, so the argument must go, nobody can have anything in the sense that matters—control over resources in this scenario has defects that can be remedied only by political institutions. Socially unrecognized control is both *tenuous* and *indeterminate*. A coercively enforced system of property relations can go a long way towards solving both of these problems: its laws and judicial procedures define the sorts of projects we can engage in with the resources we control, while their coercive backing assures us that others will respect our rights so defined.

But it’s not at all clear, *a priori*, that this is the only kind of social practice that can achieve these aims. It seems that states do three sorts of things when they impose a property system.\(^{65}\) First, they define a complex set of rights and responsibilities with respect to resources by instituting a system of property law. Second, they determine when those rights have been violated and those responsibilities abrogated by instituting a system of procedures to interpret and apply the law. Third, they make it the case that people typically have good reason not to violate rights and abrogate responsibilities by coercively enforcing the law as judicial procedures interpret it.

Each of these things, and all of them together, can conceivably be accomplished in other ways. From last to first: as I argued in the last section, if people are capable of an effective sense

\(^{64}\) To show this, note, Freeman would have to show, not just that property presupposes a *legal system*, but also that this legal system must be situated in a state. This would require, for instance, ruling out the possibility of social justice or injustice in merely *customary* legal systems, systems not backed up by a monopoly of coercive power. I will not pursue this objection further here, however, since I think we can show that property is possible outside the state without deciding whether it is possible outside a legal system (this, I hope, allows us to skirt deep questions about what it takes for a system of norms to constitute a system of laws).

\(^{65}\) This is just an application of the Weberian definition of the state, discussed above, to the case of property relations.
of justice, they can rationally comply with just practices, so long as they know what compliance would consist in, and are confident others will comply as well. So if just non-state practices can fulfill the first two property-constituting functions fulfilled by state practices—the ‘legislative’ and ‘judicial’ functions—the sense of justice can replace the third—‘executive’—function. And it is easy enough to imagine non-state practices that do these things. All that’s needed is something to make it the case, and make it generally known that it is the case, that a particular set of norms is the set of norms that is in place, and then something to say enough about how these norms apply in particular cases so that we know what counts as compliance with them.

Many existing practices perform these legislative and judicial functions, without at the same time performing the executive functions characteristic of states. Think here of any practice that imposes and interprets rules, but which doesn’t in itself have the power to punish violations of those rules. Take, say, a religious practice, which takes itself to have the authority to interpret scripture but not to impose penalties for violating scriptural norms. Or consider certain cases of mutually agreed, non-binding arbitration, where disputes are settled by arbitrators who issue verdicts that the parties agree to regard as authoritative, even though neither the arbitrator nor anyone else has the power to enforce them.

So it seems clear that there are practices that impose and interpret norms, without enforcing those norms. We would need more argument, then, to show us what’s so special about property-constituting norms, in particular, that explains why they can’t be imposed and interpreted by practices that lack the power to enforce them.

And in any case, there’s good reason to think that something very much like a property system can, conceivably, exist in the absence of a state. It’s commonly recognized that state orders are relatively new things, while commerce and trade, which presuppose property relations, are much older. Even today, societies that are only very imperfectly integrated into
state orders still seem to have fully functioning property systems; folk understandings and religious traditions seem to be perfectly capable of filling in the gaps left by weak states.\textsuperscript{66} Perhaps these appearances are mistaken. Still, it seems clear that they might not be—there’s no obvious confusion involved in taking there be a property system where there is no state. And it’s important to be clear that this is the standard here: even if these non-state property systems are always morally defective in ways remediable only by way of state institutions, it might remain that they are property systems, properly speaking, and so are the sorts of things that could count as part of a solution to the distributive problem posed by the circumstances of justice.

We can conclude, then, that we’d need much stronger arguments to persuade us that property relations essentially involve, not just some social practice or other, but, in particular, the political practices characteristic of states. So, we’d need much stronger arguments to persuade us that we can’t conceive of global justice outside the state, because we can’t conceive justice without property, and can’t conceive property without the state. Still, we don’t yet have any strong arguments to the contrary—to the effect that we can conceive of something global, besides state legal systems and international law supervenient on them, that could be just or unjust. In the next section, I sketch an argument of this kind. The idea, basically, will be that the power of states to constitute property systems in a multi-state system depends on the existence of a practice that gives property-constituting authority to states and not to other institutions. This sovereignty practice, I argue, is in effect itself a kind of higher-order property system; or anyway, is similar enough to one that is evaluable by way of the concept of social justice.

\textsuperscript{66} Cf. many of the essays in Benda-Beckmann, Benda-Beckmann, and Wiber, Changing Properties of Property.
Sovereignty and Property

Clearly, states can constitute property relations. And in a multi-state system of the kind we see all around us, the nature of individual rights in resources is determined by a plurality of state-based property systems. These systems are linked in various ways by treaties and agreements.

But, so Freeman claim, these elements of international law are dependent, or supervenient, on the domestic legal systems from which they arise—they derive their legal force from elements of domestic legal systems enjoining respect for international agreement. Suppose that he’s right: that in the world as we find it the power to impose property systems lies ultimately with states. Can’t we ask about the justice or injustice of this very fact? Can’t we ask, that is, whether it is just that the global property system supervenes on the legal systems of particular states?

To motivate the thought that this is indeed a question of justice, consider some reasons to think that the state system is something very much like a property system in its own right. States control territory, both in the lower-order sense of controlling specific material goods (land and natural resources) in that territory, and in the higher-order sense of controlling the nature of the control relations constitutive of the domestic property system in place over that territory.  

These forms of control over territory look a lot like property; they share many of property’s standardly recognized ‘incidents’. So, for instance, states have the legal right to possess territory, to “have such control [over it] as the nature of the thing [territory] admits”, in (at least) the sense that they have a recognized monopoly over the most effective forms of coercion throughout that territory. States have the right to use and to manage territory, in that they have the right to impose policy in a territory in the service of state ends. And states clearly have a

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67 Existing discussions of state sovereignty, in the philosophical literature, tend to focus on the moral import of the right to control natural resources; cf., e.g. Pogge, “Cosmopolitanism and Sovereignty.”

68 For which cf. Honore, “Ownership.”
right to security in their territory; sovereignty norms strictly limit coercive intervention in a state’s territory by external powers. States also have something worth calling a right to the income from a territory: they get to decide how the fruits of economic activity over that territory will be distributed.

More controversial is whether states have what are sometimes (somewhat confusingly) called the ‘rights to the capital’ from their territory, that is, the right to alienate territory. It’s certainly not controversial that states have alienated territory: secession, annexation, and even sale of territory have been pervasive features of the state system since its inception. But some deny that states have the right to do this. If they mean that states don’t have the moral right to do so, then they may be correct, but the point is irrelevant here. A view that said that nobody can rightly alienate any of their property would still be a view about the morality of property, albeit a very odd one. Neither is it relevant whether states have an actually recognized legal right to alienate territory, in the world as we find it now. A society where people possessed rights to possess things, use them, and derive income from them, but not to exchange, abandon, or sell them, would still be a society with a property system, albeit a slightly strange one. What matters here is whether something that could count as a state could have something that could count as a legal right to give up its sovereignty over a territory. It’s not prima facie plausible to deny this: even if states don’t now have that legal right, the state system seems to have existed before they gave it up. And, just as in the case of property, it seems to be enough for a system constituting control over territory to involve enough of the standard incidents of sovereignty to count as sovereignty.

On the face of it, then, it looks like states can be related to their territory in many of the same ways that persons are related to their property. Freeman, however denies that state
control over territory can come to anything very much like property, partly on the (erroneous) 
grounds that sovereignty is necessarily inalienable, but chiefly on the grounds that:

[Peoples can control and have controlled territories without norms of cooperation or even 
recognition by other peoples at all [...] so] unlike property and other basic social institutions a people’s 
control of a territory is not necessarily cooperative or in any way institutional (308).

The claim here seems to be that state control over territory is different in kind from ordinary 
property, since property is, and state control of territory isn’t, ‘necessarily cooperative’. Of 
course individual control over resources, qua control, isn’t ‘necessarily cooperative’ either—just 
as some states have controlled territory without the cooperation of other states, so too have 
some persons controlled resources without anyone’s cooperation. But the thought must be that 
the control states have over territory, in non-cooperative conditions, is more or less the same 
kind of control they would have in a genuinely cooperative institutional order, while the control 
individuals have over resources in a state of nature is fundamentally different from the sort of 
control involved in ownership recognized by a property system. And, so the thought must go, 
this difference between state control over territory and individual control over resources 
explains why sovereignty is not a kind of property.

Freeman doesn’t say, exactly, what this difference comes to. But the idea, I take it, is that 
state control over territory isn’t essentially defective without the cooperation of other states, in 
the way that individual control over resources is essentially defective without the cooperation of 
other people. Recall, in this connection, that control of resources in a state of nature suffers 
from indeterminacy and tenuousness: we can’t know what powers our control involves, or 
whether we’ll be able to exercise those powers reliably. Some common lines of thinking suggest 
that state control over territory lacks these defects.
So, e.g., it’s sometimes said that states, unlike individuals, are in principle capable of providing for their own security—while any person, no matter how strong, has to fear the combined efforts of others, some states are strong enough to resist the combined force of all other states taken together. So state control over territory is not potentially *tenuous* in the way that individual control of resources always is. But it’s far from clear that this is the case anymore (if it ever was)—all actual security, even super-power security, seems to rely in all sorts of ways on international cooperation. And though we might imagine far-fetched circumstances in which a state is so powerful that its security is not dependent in this way—situated on distant and inaccessible islands, protected by powerful navies—we might also imagine situations in which individuals can protect themselves without help—one who is situated, say, at the top of a steep hill, with plenty of rocks to keep invaders at bay. It’s hard to see, then, how individual control over resources is tenuous in a fundamentally different way than state control over territory: both can, in principle, be secured in non-cooperative conditions, though neither is very likely to be.

It’s also commonly thought that state control over territory is *determinate*, even in a state of nature. The thought here, I take it, is that there is some particular bundle of rights in a territory that constitutes sovereignty over that territory: because these rights are ‘natural’, and relatively determinate as such, cooperative institutions aren’t needed to define their scope and limits. But we should want to know, again, why we can say this of sovereignty rights, but not of individual property rights. Some have claimed, after all, that something like this is true for individual property rights: that they are natural, and relatively determinate as such. But all parties to the present dispute—all *Rawlsians*—reject this *Lockean* approach to property rights. It seems clear

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69 Meaning, they don’t require institutions to specify their contents; institutions, rather, must protect our pre-institutional rights. Cf. e.g. Nozick, *Anarchy, State, and Utopia*, 150–183.
to them (us) that there are a variety of actual and possible ownership schemes, no one of which has any claim to intrinsic correctness. Why not say the same thing about sovereignty? There are, after all, many different ways in which we could conceivably distribute the rights and powers involved in state sovereignty. Our current system tends to assign most rights over a given territory to a single agent. But other sorts of property and sovereignty can be conceived. So, just as taxation and regulation distribute some rights in things ‘upward’ from property-owners to the state, so too might global taxation and regulation distribute rights in territory ‘upward’ from states to global governance arrangements. And just as rules requiring easements, or limiting bequests, distribute rights in things ‘outward’, to others, so too might rules requiring open borders, or local control of natural environments, distribute rights in territory ‘outward’, from states to other sorts of agents. Thus, just as there is an open question whether a just property system would allow absolute ownership, so too is there an open question about whether a just sovereignty system would allow absolute sovereignty.

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70 This is true both because here is no naturally correct assignment of things to persons (compare: assigning particular territories to particular states); and because there is no uniquely correct way of bundling rights in things so assigned (compare: defining the legal powers a state has within its assigned territory).

71 One possible reason: sovereignty rights are less like our dissagregable rights in property, and more like our essentially aggregate right to bodily integrity. This, apparently, was Kant’s view; and a common view in Kant’s time. (Cf. here. Ripstein, *Force and Freedom*, 228f.) I cannot address it fully here, except to note that it seems to rest on the dubious thought, discussed above, that rights to territory are essentially inalienable in much the same way as rights to our body parts.

72 Pogge op cit. suggests several such disaggregations.

73 It is in this respect not unlike the sorts of property systems favored by contemporary libertarians, who tend to favor giving agents wide latitude in deciding how to use what they own.

74 Cf. here some of the proposals in Beitz, *Political Theory and International Relations.*, particularly the “global resource redistribution principle”.

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Summing up: state sovereignty looks a lot like property. Both involve similar bundles of rights—e.g., rights to use, exclude, and exchange. And in both cases, one particular way of bundling these rights can seem ‘natural’, if we don’t keep in mind all of the other ways in which the relevant rights can be bundled and assigned. If we do keep this firmly in mind, we’ll see that there are real questions about how these rights should be arranged. These are clearly questions of justice, in the case of control over resources. It’s hard to see why very similar questions about control over territory—really, about control over control over resources—wouldn’t be questions of justice, too. Both sets of questions are, ultimately, questions about the distribution of rights in things—lower-order rights in resources in the one case, higher-order rights to assign rights in resources in the other. In both cases, the rights in question seem to be ‘social products’—they arise from cooperation. And in both cases they seem to be the sorts of things on which agents (persons and peoples) can be expected to make competing claims. It seems clear enough, then, that the state sovereignty system raises questions of the very same kind as those raised by property systems: in particular, the question of how to adjudicate competing claims to the rights required to constitute a property system in the first place.

It’s reasonable to conclude, then, that the state sovereignty system is justice-evaluable for much the same reasons that state property systems themselves are justice-evaluable.

Conceiving Global Social Justice

This chapter has considered and rejected two skeptical challenges to the thought that the world, at large, is socially unjust—morally flawed in the way that many actual state-based societies are morally flawed. Both denied, in one way or another, that global social justice is conceivable in the absence of a global state. Neither succeeded. Seeing this, we can begin to see how global justice can be conceived without a global state. Considering Nagel’s arguments from
coercion, we learn that, even if socially just global institutions have to provide their participants with a kind of confidence that they are indeed just, and are indeed in place, it doesn’t follow that they have to do this by way of centralized coercion. This assurance could be provided, instead, by practices that allow the sense of justice to operate by reliably and publicly distinguishing compliance and defection, without necessarily assigning coercive penalties to the latter. Considering Freeman’s arguments regarding property, we learn that, though socially just global institutions have to be capable of making it the case that people enjoy relatively secure and determinate rights in social resources, they don’t have to do this by way of a practice, or set of related practices, that aggregate all executive, judicial, and legislative functions together, in the characteristic manner of sovereign states. There are, in principle, many ways in which these could be disaggregated and redistributed. Whether any such disaggregations are workably just is still an open question. Whether they could conceivably be just should not be.

What I hope to have accomplished, then, is to have shown the independence of the idea of social justice from the idea of the state, and so to have shown the independence of the idea of global social justice from the idea of the global state. This in turn does two things. First, it opens conceptual space for a genuinely non-statist account of global social justice. Second, it opens the possibility that the presence of states, as we know them, is precisely what makes the world unjust. Of course it only opens these possibilities: to know whether non-statist justice is feasible and desirable, as well as conceivable, we’d have to know more about when things can and should be socially just. The next part of the dissertation turns to these questions; and particularly, to the question of what could make it the case that the world ought to be just, in much the same way that state-based societies ought to be just.
CHAPTER 3: UNDERSTANDING INEGALITARIAN INJUSTICE

Given its many deprivations and inequalities, the world at large is clearly not socially just—that is, not just in the much-theorized way that a single closed society should be just. But some things are neither socially just nor socially unjust. Some maintain that that the world at large is like this—that the world taken as a whole is neither socially just nor socially unjust. This, they say, is because the world at large is not the sort of thing that ought to be socially just. Some say that this is so because social justice is essentially about equality. And, so they say, egalitarian norms only apply between those who already share states. Since there is no world state, there are no global egalitarian demands, and thus no demands of global social justice.

In this chapter and the next, I show that we should reject this argument for skepticism about global social justice and injustice. When we see why equality matters for social justice, we’ll see that equality matters outside the state.

With all extant proponents of this skeptical line, I will assume that social justice requires equality for reasons given in the recent Rawlsian social contract tradition. I argue, however, that insofar as these reasons press in favor of equality inside the state, they press in favor of equality outside the state as well. The best contractualist case for equality within states traces the egalitarian claims of subjects of state orders to their equal contribution to the goods produced by the constitution of those orders; since subjects of global orders contribute equally to the goods produced by those orders, they have egalitarian claims on those goods, too. This third chapter shows that this line of argument for equality within the state is a good interpretation of
the social contract conception, and apart from this, a *good argument* for equality within the state. The fourth chapter shows that this argument for intra-state equality is a *better interpretation* of the social contract tradition than those propounded by prominent skeptics, and that its premises, properly understood, constitute a *good argument for global egalitarianism* per se.

I start by showing how the most influential egalitarian argument in the recent social contract tradition—the *moral arbitrariness argument*—can best be clarified so as to avoid some potentially devastating objections.\(^75\)

**The Moral Arbitrariness Argument**

Every existing society, of any size, is characterized by significant inequalities in the distribution of resources. And in every existing society, these inequalities correlate with the possession of certain other features. So, e.g., in many western societies, those on the winning end of equality tend to be white and male, while those who lose out tend not to be. A prominent line of egalitarian argument impugns inequalities whenever they arise from these kinds of intuitively *arbitrary* differences between persons. And inequalities can be objectionable, so the argument goes, even when their causes are not so *obviously* arbitrary as race or gender. Societies that do not discriminate on the basis of race and gender might still discriminate on the basis of *class*. But your social class depends largely on who your parents are. How is that any better a ground for inequality than the color of your skin? Why should some get more, and others less, because of this stroke of luck? And even societies that do not discriminate on the basis of class—perfect cradle-to-grave meritocracies—can still discriminate on the basis of our

\(^{75}\) Cf., Rawls, *TJ (rev)*, 63ff. for an influential early statement of this argument; my reading of it has also been importantly influenced by Nagel, “Justice and Nature”; and especially Nozick, *Anarchy, State, and Utopia*, 213–224.
natural capacity for social productivity—our talent. But talent in this sense depends in large part on what’s in your genes. And that seems arbitrary too: why should how I draw in the genetic lottery make a difference, if how I draw in the parental lottery shouldn’t?

The key idea here is that interpersonal inequalities are unjust whenever they owe to differences between persons that are arbitrary—that cannot, in some relevant sense, warrant or justify them. I will assume that some version of this moral arbitrariness argument constitutes the core of the best social contract case for egalitarianism. That case, I take it, is meant to impugn all but a few types of inequality; inequality, so this conception’s difference principle will say, is unjust unless it leaves the least-well-off better-off than they would be under equality. If it’s going to impugn these inequalities, and only these inequalities, the moral arbitrariness argument will thus need to say that interpersonal inequalities are non-arbitrary when and only when they arise from differences between persons that can be harnessed to make the worse-off better-off than they could otherwise be.

It turns out that it is not easy to find an interpretation of the moral arbitrariness argument that condemns exactly these inequalities and no others. As has been widely noted, some of the more natural interpretations of the idea of moral arbitrariness cannot support the difference principle. Many think, for instance, that what’s objectionable about inequalities owing to race and gender is that we are not responsible for the color of our skin or our reproductive biology—and that it is therefore unfair if how we do depends on these strokes of luck. Nor are we responsible for our parentage or our genes; thus, it’s unfair in much the same way when how

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76 An assumption shared by much of the relevant literature concerning to application of this tradition to questions of global justice; including the three main skeptics considered in the next chapter: Blake, “Distributive Justice, State Coercion, and Autonomy”; Nagel, “The Problem of Global Justice”; Sangiovanni, “Global Justice, Reciprocity, and the State.”

77 Cf. for example, Cohen, Rescuing, 153ff.
we do depends on our social class, or on our natural talents. But some inequalities that serve the interests of the worse-off may still owe to differences between persons for which they are not responsible. So, e.g., allowing the talented to do better than the untalented may make it possible for there to be so much more to go around, that the untalented can be better off than they would be under inequality.

This luck-egalitarian interpretation of the moral arbitrariness argument fails to serve a Rawlsian conception in another important way, as well. Even supposing, counterfactually, that it condemned precisely the same inequalities as the difference principle, it does not condemn them with the same sort of normative force. The luck-egalitarian appeals to a principle that says that the world is bad in one way when differences in how people fare do not reflect differences in how they deserve to fare. His argument concludes that worlds containing social arrangements that produce these sorts of inequalities are bad in at least this one distinctive way. As I argued in Chapter One, however, the application of the Rawlsian contract theorist’s concepts of justice and injustice requires a more forceful sort of moral judgment than this. A society is unjust, in the core Rawlsian sense, iff its distributively significant practices do not live up to the standards established by the point and purpose of having distributively significant practices in the first place. But the judgment that an inegalitarian social arrangement is bad in the luck-egalitarian’s one, desert-flouting, way, is at most one reason among the many that bear on whether it lives up to these standards. Thus, the observation that unequal societies are bad in this luck-egalitarian way cannot, for the Rawlsian, suffice to show that they are unjust.

Since the Rawlsian needs the moral arbitrariness argument to conclude with a claim about the balance of reasons relevant to distribution, she would do well to interpret its central notion,

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78 'Normally' is explained in the previous chapter; I drop the qualification going forward, as repeatedly re-including it re-introduces complications that have no bearing on the argument here ...
arbitrariness, as having implications for that balance. Here she has two options. She can say that the fact that a difference is arbitrary implies that we have decisive reasons not to ground inequalities in it. Or she can say that the arbitrariness of a difference implies, only, that this very difference cannot serve as a reason for unequal distribution. So, e.g., she can say that the fact that talent is morally arbitrary implies that there should be no inequalities between the talented and the untalented; or she can say, only, that the fact that talent is morally arbitrary implies that talent differences are not reasons to allow inequalities between the talented and the untalented.\footnote{Either way, of course, she has to make good on this claim. I won’t consider here how she might do this here.} The first approach will not work, if the argument is supposed to conclude with the difference principle, which \textit{can} allow inequalities grounded in talent differences. The second approach, on the other hand, need not bar inequalities between the talented and the untalented—it simply says that the mere fact that someone’s genetic endowment suits her to greater productivity is not in itself a reason that she should get more. This does not support the difference principle on its own—but, nor, critically, does it preclude it.

Thus, the Rawlsian should say that morally arbitrary differences between persons cannot justify inequalities between them. So understood, however, the claim that an inequality is based in morally arbitrary differences does not in itself show that this inequality is \textit{unjustified}.\footnote{Nozick makes this point forcefully at \textit{op. cit.}, 222-4. My interpretation of the arbitrariness argument is, in effect, Nozick’s “argument D” (222); the above can be read as a reason to think that this is the best interpretation of Rawls’s argument; the below, as a defense of the presumptively egalitarian premise Nozick challenges.} This is both a virtue and a vice of the view. On the one hand, it allows the argument so construed to support the difference principle, as alternative construals could not. On the other hand, it leaves the Rawlsian with an additional argumentative burden. Showing that differences are arbitrary, in this sense, only shows that \textit{they} cannot justify inequalities. It does not show that any
inequalities are *unjustified*. To show that, we need to show that the relevant inequalities are unjustified, *if* they are not justified by the considerations captured by the difference principle.

**A Presumption of Equality**

So the moral arbitrariness argument cannot constitute a complete argument for a Rawlsian egalitarianism. It can show at most that certain considerations, considerations like class and talent, are not in themselves reasons to distribute goods unequally. Even if this is right, it may still be that inequality is not unjust, either because there are other reasons to distribute unequally, or because no such reasons are required. The Rawlsian can rule out both of these possibilities at once, if she can show that there are strong standing reasons to distribute equally, reasons that cannot be defeated, except by the considerations ruled out in the moral arbitrariness argument, or those ruled in by the difference principle.

The remainder of the chapter defends this *presumption of equality*. The argument goes as follows: the basic institutions of a society produce and distribute important goods. These institutions are produced in turn by the compliance of those subject to them. Compliance with basic social institutions thus implies contributing to the production of important goods. These contributions give us claims on those goods. Now, the force of our claims is prima facie proportionate to the import of our contribution to production. But because participation in this form of production is imposed, by all of us together, on each of us individually, those who participate more cannot reasonably claim more in return. So all who comply with basic social institutions count as contributing equally to producing the goods they bring into existence. Thus all compliant members of society have equal claims on some important social goods. And these claims are decisive, unless we have certain sorts of reasons to waive them—namely, that by doing so, we can be better off in terms of the very goods they are claims on. And when we have these reasons, in fact, they just count as waived; whether we actually voluntarily waive them or
not. It follows that there are some important goods on which everyone in society has equal claims; claims to equality that are defeated when and only when the worst-off will get more of these goods under inequality.

**What Society Produces**

So: we want to see how we can defend the claim that certain goods ought to be distributed equally, unless there are reasons of a very specific kind to distribute them unequally. The proposal on the table is to defend this *presumptive egalitarianism* by appeal to the presumptively equal claims we get on certain goods in virtue of our equal contribution to their production. Since this egalitarianism is supposed to apply among all those who share societies, just because they share societies, the goods in question will have to be the goods that are produced by all those who share a society, just because they share a society. So to know what egalitarian conclusion to defend, we should first ask: what goods does society itself produce?

Note here, first, that many paradigmatic goods are *not* made by society. Within society, many particular desirable things—food, shelter, consumer electronics—are made by some particular person or group, rather than by the society as a whole. To be sure, society makes the production of particular things possible. But making production possible is not morally equivalent to producing. Thus even if the societal contribution to particular production gives everyone in society some claim on particular products, particular producers, who are of course also members of society, will have additional claims as well. The production-enabling role of society does not, then, lead in any obvious way to a societal claim on particular produced things.

But though society does not produce *particular goods*, when it makes production possible, it does produce *something*—namely, conditions for the possibility of producing and enjoying particular, concrete goods. These provide the *background* against which particular productive activities occur. More specifically, the members of society produce and enforce a system of
norms that makes it possible to reliably control concrete things. Without a property system of this kind, people lack the kind of control over concrete things they need to rely on those things as they make. As we might put it: a property system transforms mere things, that is, mere concrete bits of the world, into resources: means that can figure in our plans for achieving our ends. Thus the production of the property system itself produces productive possibilities. In doing this, it produces a more abstract sort of good—opportunities to participate in particular production and thereby acquire claims on particular produced goods. Since it can do this in different ways, ways that can be expected to distribute opportunities differently, there are questions of justice concerning how this sort of higher-order production ought to go; questions whose answers can be expected to bear, importantly, on questions about the distribution of more concrete goods.

To illustrate the distinctive way in which societies produce and distribute important goods by producing a property system, it will be helpful to consider a simpler case. Consider a village just being formed by recent immigrants. Some of these immigrants come with seeds to plant, and some come with animals to raise. For simplicity, let’s stipulate that these farmers and herders are utterly set in their ways; no one will switch groups, and no one will engage in both activities. All of the villagers, let’s say, want to cooperate with one another to build a better life; let’s say, as well, that they all value the same things as means to building better lives for themselves. Assume also that, at the outset, there are no claims on the resources of the territory, including especially land. The villagers have to decide which such claims to recognize. Here there are two relevant choices of system. One would make it impossible to acquire extensive rights in plots of land; the villagers, however, choose another, which does allow robust land ownership. In this arrangement, farmers can have the right, for instance, to enclose their

81 Here I summarize and simplify a line of reasoning pursued at greater length in Chapter 2.
lands against grazing animals. This set of rules thus tends to make planting crops more productive, while the other would have favored raising animals.

By instituting this particular system of property rules, the villagers are both producing and distributing. Because this system exists, it is much easier to produce many things than it would be if there were no property system at all. Thus the system creates or produces productive opportunities—chances to produce other things. But the villagers’ choice of system makes it relatively easier to produce by planting crops than to produce by raising animals, while the alternative choice would have made it relatively easier to produce by raising animals. So, if that system also makes one’s ability to consume a function of what one produces, this choice makes it easier for the farmers, and harder for the ranchers, to get what they have reason to want. This means that different choices of system have different effects on how much different choosers can get, of what they have reason to want. In producing opportunities, then, the villagers make a difference to the distribution of something that all have reason to want.

So the production of the property system produces and distributes goods. It’s worth noting, however, that what is distributed here—what our villagers have claims on—is not exactly the same as what is produced, viz., opportunity. The villagers, after all, might or might not have reason to want opportunities to work. That will depend on whether working in a particular system constitutes or conduces to getting something of value. But what they do have reason to want is opportunity to work insofar as that is a good—they want it to be as easy as possible to convert work into more directly desirable things. Their claims, then, are on the worth or value of opportunity: this, then, is what the constitution of their background system distributes,

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82 It will also depend on whether the villagers can make use of the relevant opportunities; those who cannot may still have claims to be compensated in some other coin. More on these sorts of issues, below.

83 Including, possibly, work itself, or the getting of other good things by work.
in the sense of ‘distribution’ that matters to social justice. Questions about the justice of these systems are, therefore, questions about how their constitution affects our ability to get what we want, by working for it.

So: in the case of the village, the constitution of a property system produces opportunities and thereby distributes the worth or value of those opportunities. It thus poses a question of social justice. Though the village case is in many ways simplified, all these points about the import of property systems for justice should generalize to more complex societies. In the simplified case of the village, questions about the justice of the property system come down to questions about its impact on the farmers, as compared to its impact on the herders. These are questions about the distribution of the worth or value of opportunities. Since we’ve assumed that all the villagers have the same relevant interests in resources, all that matters, here, is how the background system affects their ability to access resources by way of work. And, so we’ve supposed, all of the farmers are equivalent to one another in this respect, as are all of the herders.

I propose that we can reasonably make similar suppositions about a more complex society. We can assume that opportunities to engage in productive work will be a good for all functioning members of a reasonably just society—among other reasons, because societies that totally delink consumption from participation in production will tend to be inefficient in obviously justice-undermining ways.\textsuperscript{84} And we can assume, with many in the Rawlsian social

\textsuperscript{84} Again cf. below for discussion of the severely disabled.
contract tradition, that for the purposes of theorizing about justice, anyway, everyone has the same sorts of interests in the same sorts of resources.  

Given these assumptions, the only relevant difference between the village case and the more complex societal case is the fact that the population of a complex society cannot be partitioned into just two fixed groups, each of whose members are assumed to be equivalently impacted by the choice of basic social rules. There are far more than two ways that the distribution of opportunities can affect interests in a complex society. For one thing, there are many more than two occupations in a complex society. For another, we can expect that some people will change occupations over the course of their lifetime. In a complex society, then, the distribution of opportunity affects people, not qua members of one of two groups (herders or farmers), but qua potential occupants of any of a potential myriad of productive roles. That’s to say: in a complex society, the choice of property system distributes something that is differentially valuable to different people depending on their ability to be productive in that system—their talent, for short.

So, we can conclude: though society does not produce particular, concrete resources, it does produce an important higher-order good: namely, opportunities to produce and acquire concrete resources. It does this, primarily, by instituting a property system. Since different property systems produce different profiles of possible productive activity, the choice of property system produces and distributes opportunities. This is not the same as producing and distributing particular things, though how we ought to produce and distribute opportunities

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85 There is, of course, an important debate on this matter. (Cf., e.g. Sen, “Equality of What?”). On my reading of it, it largely turns on the question of whether a resourcist view of the kind presupposed here can properly accommodate the disabled; who may require more resources through no fault of their own. More on these issues below.
does, presumably, bear on how particular things ought to be distributed. There are thus important questions about the justice of the property system itself; questions, ultimately, about how the property systems ought to affect the ability of members of society to convert effort into resources.

**Producing Society**

Having said what basic social institutions like property systems produce and distribute, we’re now in a position to construct an argument that they ought, presumptively, to distribute those things equally among everyone subject to them. This argument has three steps. It begins by motivating the assumption that those who contribute to the production of basic social institutions have prima facie claims to returns proportional to the extent of their contributions. It then offers some reasons to think that everyone who complies with basic social institutions counts as contributing to their constitution.\(^86\) Next, it shows why contributions over and above compliance do not, after all, generate forceful claims. It concludes from these premises that, since all compliant members of society count as contributing equally to its constitution, they each have an equal claim on the opportunities it produces.

**(Only) Contribution Matters**

The moral crux of this argument for egalitarianism is its claim that the fruits of basic social cooperation ought to be distributed in proportion to contribution. This can be construed as the result of applying a more general principle recommending that the returns from cooperative production ought to be proportional to contribution. Now, this *productivist* principle has some

\(^{86}\) Constitution, in my usage, includes maintenance: I assume that basic social institutions, like dances and many other social practices, have to be constituted constantly in order to be maintained.
prima facie force whenever we’re considering the morality of productive social cooperation. People can get forceful claims on things by contributing to their production, and the force of these claims often seems to depend on the size of the contribution. (If, for instance, you and I work together to dig a well, but you do twice as much digging, that gives you a claim on the worth of the resulting water that is twice as strong as mine). However, in some cases, other principles may seem capable of defeating these productivist considerations. Sometimes, e.g., the fact that you’ve contributed more than I have to the production of a good is outweighed by the fact that I need it more (I have ten thirsty kids; you are a bachelor). And sometimes, the fact that you’ve contributed more is trumped by the fact that we have or would have agreed that I should get more anyway (you agreed to give me half the water, before we started digging).

Taking agreement first: actual, prior agreement, at least, is clearly irrelevant in the case of background-constituting cooperation. We are born into society one by one; there is never any point at which we all, actually, get together and agree on terms of cooperation going forward. Thus there is, here, no actual prior agreement the force of which could compete with productivist considerations. Matters are somewhat less clear in the case of merely hypothetical agreement. Considerations of hypothetical consent do seem to be relevant, even in cases where contribution to production is the guiding value: whether a contribution grounds a forceful claim on goods does seem to depend on whether others are bound to accept that claim. Still, it is hard to see how considerations of hypothetical consent could bear independently on basic social cooperation in a counter-egalitarian way—that is, in a way that does not come down to the inegalitarian import of some other principle. The mere fact that we would have agreed to an inegalitarian system does not contradict egalitarianism; that depends on the quality of the reasons for which we would have agreed to inequality. E.g., if we would have agreed to inequality because of impermissible avarice—because we want more than we should want—the
fact that we would have agreed does not mean much. So it seems we need a normative conception of the grounds on which hypothetical agreement can be made or withheld, a conception that is not itself based in the idea of hypothetical agreement. But then it’s hard to see how the idea of hypothetical consent could do independent work in a non-question begging argument for inequality; surely the defender of equality will simply shift the ground to an argument about which reasons for hypothetical consent should count.

Need is the more difficult case. Considerations of need do seem to be morally forceful, even, and perhaps especially, in the basic-structural case: that someone needs something from these profound and pervasive institutions, for their basic functioning, seems like a strong reason that those institutions should give it to them. And it may seem clear that people have different needs; if need bears on how to distribute the fruits of basic social cooperation, it may, therefore, bear in a clearly anti-egalitarian way. However, this is not as obvious as it may appear—at least, if we restrict our attention to those who can engage productively in society. To see this, notice that the good to be distributed, here, is the worth or value of the ability to get desirable things, by engaging in productive activities. Someone has more of this good if it is easier for them to convert effort into goods; someone needs more of it if they need this to be easier. That will be a function of (a) how much one needs the relevant goods; and (b) how hard it is for one to convert effort into those goods. But we have assumed that all contributing members of society have the same needs with respect to directly desirable, non-opportunity goods. And we can also adopt the standard assumption that conditions are favorable: that any just background structure can make enough resources so that every contributor’s resource-

87 There is a long-standing controversy as to whether and how moral arguments from hypothetical consent depend on non-consent principles; here I take the side of those who think they must. Cf. e.g., Dworkin, “The Original Position.”

88 Cf. Sen, op cit.
needs can be met.\textsuperscript{89} On those assumptions, only people who cannot put out the amount of effort required to get enough goods have unfulfilled opportunity-needs. But there should be no such people in a society that distributes the worth of opportunity justly among all contributors, under favorable conditions. As we will see, such a society should make it \textit{equally} easy for anyone to convert effort into resources, unless making it harder for some makes even them better off than they would be, if it were easier. Now one possibility is that making it equally easy for people to get what they want makes enough to meet everyone’s needs, in which case everyone’s needs are met (a) under equality; but also (b) under any permissible inequality, since inequality does not make the worse-off better off if equality satisfies their needs but inequality does not. Another possibility is that equal distribution of the worth of opportunity would not generate enough to meet everyone’s needs—but in that case considerations of need only recommend that we institute inequalities that are permissible anyway, according to the difference principle.

This, of course, still leaves the question of the needs of non-contributors—those who cannot put out any useful effort at all. Eventually I will argue that these need not constitute a forceful objection to a contribution-based egalitarianism either. That, however, will require a more specific account of contribution; thus I defer further discussion of the issue until after that account has been provided.

\textit{Everyone Contributes}

So: when we work together to constitute a background social system, we produce opportunities to produce more particular things. And there’s reason to suppose that justice says

\textsuperscript{89} Assumed, e.g., at Rawls, \textit{JF}, 101f.
that these opportunities ought to be distributed among those who constitute these systems, in proportion to what they contribute to their constitution. So, we should ask: in what way do we as individuals contribute to the constitution of the background system?

Individuals contribute to the background system—including, at least, the property system—by complying with its rules. Practices like property systems are in place, when they are in place, because people practice them. This is a sufficient condition for the existence of a concretely embodied social practice. So everyone who complies thereby constitutes part of a sufficient condition for the production of the property system. Of course it’s clearly not true, in general, that being part of a sufficient condition for the existence of a thing is enough to count as contributing to the production of that thing. This would massively overgenerate contribution to production, since any condition sufficient for the existence of an actual thing is still sufficient when conjoined with just about any other condition. E.g., your digging is enough to make a well, but then so too is your digging while I discourage and berate you. However, my berating you is no part of what it is for this well to get dug. However, if I jumped in and helped instead, my digging would be part of what is for this well to get dug. I would, quite literally, be doing my part in digging the well; what I do would be, literally, part of this particular digging of a well. And that, by the productivist principle, would give me a claim on the value of what was produced by the well-digging—say, access to the water it provides.

90 My berating, we might say, is part of a merely sufficient condition for the well-digging, but not part of a constitutively sufficient condition for it. To illustrate this distinction, consider some conditions sufficient for the fact that my chair is red. It is merely sufficient for my chair to be red that it is red and to the West of the Eiffel tower; it is constitutively sufficient for my chair to be red that it is scarlet; it is, we might say, red by being scarlet.

91 Notice that, if something was produced by the well digging taken together with the berating—say, an award for best piece of performance art—my berating would give me a claim on the value to me of that thing (I would be doing my part, in that enterprise). But in the case as described we assume there is no such thing—the product in question is access to water, and my berating is no part of the conditions that provide for the existence of that product.
Similarly, we can say, the going pattern of compliance with a system of rules is what it is for that system to be in place. A social system, after all, just is behavior regularized by rules. By complying, then, I (literally) do my part in constituting that system; what I do is part of the profile of actions that makes it the case that this system is constituted. And that, I maintain, makes my compliance a claim-grounding contribution to the production of the goods engendered by that system.

It might be objected, here, that since no single person has to comply for the property system to be in place, no single person’s compliance makes a difference to the existence of that system. Some notions of contribution, particularly those current in economics, define it so that my contribution is simply the difference I make; if I make no difference, I do not contribute. Some other natural accounts of contribution in terms of causation may have the same result—for instance, if causation itself is definable counterfactually.

To see why we should reject these analyses, notice, more generally, that we often count as contributing to a collective enterprise in a responsibility-conferring way, even though what we do doesn’t make a difference to the outcome. One classic example is a firing squad: if I and ten others willingly participate in the execution of an innocent man, each of us gets some blame despite the fact that no single bullet makes a difference. Similar examples show that we can get credit as well as blame in this overdetermined way: if five people help push my car out of a ditch, together, even though it could have been done by any three, I should still be grateful to all five. And most relevantly for present purposes, if five people together dig a well, even though it could have been dug by any three alone, all five have claims on the water it produces. These cases could be multiplied; taken together, they suffice to show that responsibility for the outcome of a collective enterprise does not require an ability to make a difference to that outcome.
Everyone Contributes Equally

So: I do not need to provide a necessary condition for a state of affairs to become responsible for contributing to it. Rather, I can count as responsibly contributing to something just because my action is part of a condition that suffices for it, in the right way: because what I do is part of what it is for that thing to occur. And this, plausibly, obtains for contributions of compliance to basic social structures. We can conclude, then, that everyone who complies with basic social institutions counts as contributing to their production. Each, therefore, has a claim on the opportunities produced by those institutions.

But why think that these claims are relevantly equal? That seems much less clear. Even if everyone contributes something, when they contribute compliance, it seems plausible that some contribute more than others: surfers (say) just follow the rules, whereas (say) wealthy businessmen follow them, but also pay for their upkeep, and activists (say) follow them, but also work to maintain then and make them better. Businessmen and activists, as we might say, do one part in constituting the social system by complying, and another part by paying their taxes, or working to maintain and improve that system—thus there is a very clear sense in which they contribute more than the merely-compliant surfers. And these additional contributions, we might think, must give them additional claims on the worth of the opportunities produced by basic social institutions.

My contention is that this is not the case—that no contributions over and above compliance count, for the purposes of distributing the goods produced by basic social cooperation. This is not to say that no one makes a contribution that is, in any sense, greater than anyone else’s; after all, since some contribute compliance, and also something else, some seem clearly to contribute more than those who merely comply. However, in general, not all contributions to production translate into claims on products. Contributions of stolen goods, for instance, do not
seem capable of grounding claims, even though in employing them we may be helping to constitute a given instance of productive activity. Contribution _per se_, then, is one thing; claim-grounding contribution is another.

I argue that, in the case of the background system the only kind of contribution that can ground claims on returns is contribution in the coin of compliance. The problem here, however, is not, as in the case of stolen contributions, that we are positively _un-entitled_ to the means we use to make contributions beyond compliance. Rather it is that our entitlement and ability to make these sorts of contributions is not sufficiently _independent_ of the choice of background system for facts about these contributions to have force for determining how the benefits and burdens produced by basic social cooperation ought to be divided up. This is not true in general – often unequal contributions to production warrant unequal returns – but it is true for the production of background social systems. This, I maintain, follows from two special features of the kind of collaborative enterprise involved in constituting a background system; each of which rules out one of two possible types of contribution beyond compliance.

Some (wealthy businessmen, say) might claim to contribute more than the merely compliant on grounds that they pay more taxes. These sorts of contributions do not count for basic structural cooperation, because, from our perspective as individual contributors, the import of the background system is, as Rawls puts it, _profound and pervasive_. Our ability to justly accrue most of the concrete resources we contribute to basic social institutions is profoundly derivative on the character of these all-pervading institutions; one (capitalist) system’s tax-paying pillar of the business community is another (socialist) system’s exploitative black-marketeer. Many resources, then, can only be justly held because basic social institutions are as they are. But in general, when entitlement to a contribution to a collective enterprise is in

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92 Rawls, _TJ (rev)_ , 82.
this deep way dependent on the choice of terms in which it is conducted, it cannot constitute
the basis of a claim to influence that choice. To see this, consider a simple case. Suppose that
you and I are marooned on a desert island. With the last remnants of our life boat, we can make
either a fishing rod or a pole for gathering coconuts; we will then collaborate using the tool we
make to eke out a living. So we together have a simple choice: either we live by fishing, or we
live by gathering coconuts. Suppose now that you are a better fishermen, and I a better
coconutter. Supposing that we what we will be entitled to going forward will depend on what
we produce, the fact that you will have more food to contribute as a fishermen is a reason for
you to want us to make the fishing rod, while the fact that I will have more food to contribute as
a coconutter is a reason for me to want us to make the coconut pole. But these, clearly, are not
reasons we can reasonably offer one another, as we deliberate about which tool to make; we
have to settle the matter, and start cooperating, before these entitlements come into force.
Thus reasonable people would have to agree to bracket these considerations here; and so to
agree that, whichever tool is made, what is then made with it ought presumptively to be shared
equally.93 If, then, ill-advisedly, I actually do agree to something else; then you still cannot justify
your greater returns in terms I could have reasonably agreed to. Thus the claims you’d press on
their basis would have no force that I am bound to recognize.

The same can be said in the case of the background system; contribution in coins
entitlement to which depends on that structure do not count; including, practically any
contributions concrete property. To treat these contributions as if they grounded additional
claims would be to treat something that is to be fixed in the choice of basic social system as if it
were fixed prior to it. Doing this results in a system that is not, relevantly, justifiable to everyone

93 'Presumptively' because it may be reasonable to agree to unequal distribution if that benefits
everyone; for which more below.
in terms they can reasonably accept: those who could have had more to contribute in a different system cannot be asked to abandon those prospective claims without due compensation. If, then, we simply find ourselves involved in a background system that distributes what it produces unequally; those who get more of these things cannot justify this in terms of what we could have reasonably agreed to. Thus, in a going society, those who contribute more of these sorts of things to basic social institutions do not get claims that those who contribute less of them must recognize.

The system we have, therefore, cannot be justified to all by reference to claims that come from contributions of, e.g., wealth, since those who have such claims cannot reasonably press them against those who lack them, as we consider how basic background institutions should be set up. This, however, only excludes those contributions entitlement to which depends on the choice of background system. But some contributions beyond compliance are not like this—unlike the businessman’s wealth, the activist’s power to choose to work to improve her society is hers in any system. Her additional contributions, then, are not dependent on the choice of social system in the same claim-vitiating way as the businessman’s—her entitlement to what she contributes does not depend on the character of that choice.

That said, the activist’s contributions are dependent on the choice of system in another important way. Though she is in any case entitled to choose to employ her abilities in pursuit of a better society; she is not entitled to have abilities that make it easy or pleasant for her to do this. Which abilities facilitate these sorts of contributions depends profoundly on the nature of going practices of political participation—so, say, some who could contribute much to practices based on consensus and informal negotiation not might be able to contribute much less to more formal and legalistic political practices. So, though our activists’ entitlement to the efforts she
offers as contributions does not depend on the character of the social system, her ability to contribute what she is in any case entitled to does depend on this.

On reflection, however, we can see that a second special feature of the collective enterprise of constituting a background system rules out the moral relevance of contributions that are dependent in this other way. It is critical here that this system is imposed on us; the character of the social world we find ourselves in is determined by choices made by others. But in general, when my ability to contribute to a collective enterprise depends on terms that you impose on me, you cannot reasonably claim more in return when you contribute more on those terms. To see this, suppose again that you and I have washed up on the desert island and have to choose whether to collaborate to fish, or rather to gather coconuts. This time, however, you force the issue in favor of fishing; say, by convincing me, somehow, that you’d rather starve than pick coconuts. I’m bad at fishing, so I go on to catch many fewer fish than you. Because you’ve imposed this situation on me, you cannot reasonably claim more on account of your greater contribution; your responsibility for the difference between our contributions takes it off the table as a justifier of inequality.

In this case, the fact that you force the conditions for my lesser contribution on me means that you cannot press any claims you might otherwise get from greater contribution. But we might think that there are two problematic differences between this case and the case of the social background system—

First, it may seem to be critical that in the island case, your actions actually make a difference to the conditions for production that I face. This will not be the case for the background system, where not even those who benefit most from the system can make an appreciable difference to how it is designed.
What matters, here, however, is not the difference you make to my profile of productive possibilities. It is the fact that you are responsible for the conditions I operate under (that someone else would have forced me if you didn’t doesn’t get you off the hook if you are the one that actually does). And, so I have argued, responsibility of this kind does not require that one’s actions or decisions make a difference to those conditions; rather, it requires, only, that what one does is in the right way part of a complex of actions that generates them. Compliance with the rules of a background system can therefore be enough to generate responsibility. There are, however, two sides to this sort of responsibility: one side gives the compliant claims on the assets their compliance produces; the other, though, yields liabilities. These liabilities are not, plausibly, unlimited. After all, society is imposed on the fortunate much as it is imposed on the unfortunate. But they do seem to extend, at least, to any benefits that I voluntarily seek from my society, including any benefits I seek on grounds of my choice to do more than merely comply. My complicity in going institutions holds these claims hostage to the claims of others who are involved in them, including, especially, those who only have the basic claims that come from compliance. It is merely not a regrettable fact, outside the scope of any agency I share responsibility for, that they cannot contribute more; rather, this is a consequence of a choice that I have had a part in making. So I cannot reasonably say to them: ‘it’s too bad that you couldn’t contribute more; but as it turns out I could, and did, so I should get more’; to say this would be, again, to treat something that resulted from a collective choice as if it were a fact of nature.

Even granting this, though, we might still worry about a second seemingly important difference between the desert island case and the case of the basic structure. In the island case I

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94 Cf. Chapter 4 for a brief argument to this effect; also, for something similar enough, Kutz, *Complicity*, 166–202.
produce less simply because I am *bad* at fishing and thus unable to produce more. Your responsibility for that inability takes the resulting difference in productivity off the table as a justifier of inequality. But if I produce less because I am *unwilling* to work hard at fishing, it seems plausible that *my* share of the responsibility for *my* lesser productivity keeps it on the table as a justifier of the inequality between us. And we might think that some differences in contribution to basic social structure are like this: many of those who do less to maintain and improve these rules than others do less not because they *can’t* do more; but rather because they do not want to.

It is important here, however, that contributions to imposed social structures are a special sort of contribution: by definition, they are contributions to the *imposition* of a pervasive social structure, and thus are part of a collective action that profoundly affects the profile of social possibilities that others face. The effect of these contributions on the moral landscape is, therefore, conditioned by the distinctive morality of this sort of imposition. This places a special burden on the justification of claims arising from this sort of contribution. That burden makes it harder for those high-contributors to reasonably claim that those who contribute only compliance are relevantly responsible for their lesser contribution. Most or all of these low-contributors will be able to say, reasonably, that they would have been much more willing to participate in the political processes of a society better suited to their talents and inclinations. They need not claim that this means that they should receive rewards *within* a going social system for what they might have but didn’t, contribute (they can grant that professional activists and politicians are entitled to their salaries). Rather, they need say, only, that the fact that they would have happily contributed more in a more congenial system must be recognized

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95 Those who cannot reasonably say this may have lesser claims on basic social institutions than those who can. It seems reasonable to suppose, however, that this will be a vanishingly small group.
when considering the choice of basic social institutions. In fact, these prospective contributions must be taken as exactly on a par with the prospective contributions of those who actually go on to contribute. To do otherwise would to take something that is to be determined by the choice of social system as if it were determined prior to it. And that would leave an important aspect of our life together without a justification—we wouldn’t know why it should be that some people can contribute more than others.

So: by complying with basic social institutions, like the institutions of the property system, we contribute to their constitution. This gives us claims on the goods they produce. Since our compliance also makes us responsible for how basic institutions are structured, we cannot claim any more from those institutions than what we deserve as compliance-contributors. Other forms of contribution are, in one of the two ways discussed here, too dependent on the particular terms of contribution we impose for it to be reasonable for us to claim rewards, on grounds of having made them. Thus every compliant member of a society has presumptively equal claims on the goods produced by its basic social institutions. Since the constitution of basic institutions like property systems produces a particular profile of opportunities to engage in productive activity; our equal claims are on these sorts of opportunities, insofar as those are desirable for us. Taken together, these claims generate a strong presumption that basic social institutions should be structured so as to equally promote everyone’s ability to acquire particular desirable things by participating in production.

**Waiving Claims from Contribution**

So we can conclude: to be just, basic social institutions like property systems be designed so as to allow every compliant subject the opportunity to take up equally remunerative careers, if they so choose, no matter their underlying ability level—no matter, even, if they are significantly
disabled. The compliance of the disabled means that they produce the background system as much as anyone does; thus their claims on it are as good as anyone’s are.

Taken as it stands, this may seem implausible. It may seem to require, for instance, that our background system produce a very inefficient profile of productive activities; perhaps because only a highly inefficient system can provide equally remunerative work to people with very different kinds of capacities. E.g., because it is possible, but very expensive, to provide people who are severely disabled with the resources they need to take up highly remunerative careers.

Notice, however, that the justifiability of this objectionable sort of leveling-down does not quite follow from these premises. The disabled have claims to equal opportunity which, if pressed, could require leveling-down. So we should ask: under what conditions will these claims be pressed? Despite appearances, this need not be an empirical question about which actual untalented or disabled people will do what. Some claims can change the moral situation even if those who possess them do not actually press them—for example, claims pressed on behalf of someone who cannot press them themselves, because they are too young. Conversely, some claims cannot be forcefully pressed except under certain conditions, no matter how hard the actual claimant tries. Most importantly, for present purposes, some claims cannot be forcefully pressed, unless their claimants have certain sorts of reasons to press them. I might have a claim to borrow your car, since we’re close friends and you borrowed mine (since sold) last week. If however, I have no need to drive the car but only want to deprive you of the use of it (not for your or my good, but rather just out of spite), my claim lacks force.

It is plausible to think that the claims we get by contributing to basic social structures are like this. Or, anyway, it is as plausible as certain central ideas of the social contract approach to theorizing about justice. This approach will maintain that since the claims in question are claims on the conduct of a common cooperative project, pressing them needs to be justifiable to each
in terms of the reasons each has to engage in that project. Claims to level-down do not satisfy this condition of mutual justifiability. Since, by definition, they make no one better off, no one has self-regarding reasons to press them. If there are reasons, they stem from a direct concern for how others do, irrespective of how that affects how we do. Now, these other-regarding concerns are clearly not mutually justifiable if they are driven only by envy or spite. They may seem more justifiable if they are driven by moral convictions that some kind of equality matters as such. But they are, I think, still unjustifiable in the end, on the most promising social contract conception of the point and purpose of distributively significant social practices. Such a conception will maintain that our reasons to live together in a society stem from the fact that doing so allows us to pursue our own goods much more effectively than we could outside society. The purpose of distributive practices is to help us aid ourselves and each other in this pursuit, not to make it possible for us to together pursue values that don’t directly contribute to anyone’s individual good. That’s the sort of purpose appropriate to, say, a university, which is to pursue knowledge, or a religious community, which is to promote the glory of God. To insist that others recognize the intrinsic import of distributive equality, in deciding how to constitute a basic social system, would be to recruit that cooperative project in the service of this sort of impersonal value. And that is something that our fellows can reasonably object to; promoting these sorts of values, they might say, is not what they ‘signed up for’ when they signed up for society.

So, anyway, a social contract conception can plausibly maintain. Of course, it remains to be seen whether this account of the point and purpose of distributively significant social institutions can be suitably clarified and eventually defended. I have not come close to

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96 I argued in Chapter 1 that the characterization of the parties in the original position argument reflects this assumption.
completing that project here. I do hope to have shown, however, at the very least, how a social contract approach could in principle justify a presumption of equality without thereby immediately incurring a commitment to regarding all inequalities as unjustified. This should be enough to warrant confidence that a contribution-based case for egalitarianism can support the difference principle.

**Contribution and Disability**

So, we can be confident that the account offered here does not give excessive weight to the claims of the disabled. The claims of the compliant disabled are as forceful as anyone’s; but no one’s claims have the right sort of force to require leveling-down. We might wonder, however, about the claims of those who are too disabled to contribute, even in the minimal coin of compliance. Profoundly disabled people are people too; and so, we might ask, don’t they therefore deserve consideration as subjects of egalitarian justice, as well?97

In response, note first that some who cannot comply may still have equal claims, for much the same reasons that those who can comply do. In particular, there is reason to think that people who could have complied with simple rules, but cannot comply with more complicated rules, have the same claims as those who do comply. To see this, recall that I’ve argued that people who can contribute some, but not as much as others, can still count as making an equal contribution, if those who contribute more are responsible for the conditions that make it hard for those who contribute less. This responsibility for the conditions that make greater contribution impossible makes it inappropriate to claim greater rewards on account of that contribution. Something similar can be said for some of those that cannot contribute at all; if their inability to contribute is not their responsibility, but rather the responsibility of other

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97 Cf. here Nussbaum, *Frontiers of Justice*. 

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contributors, then it may be unfair to for those contributors to deny them an equal share. This will depend, it seems, on whether they have some sort of prima facie claim to inclusion, the force of which gives them a compensatory claim when they are excluded, even if they are excluded for good reason. Perhaps it is plausible that this will be the case for many of those who cannot comply with the rules of the territory they are born in because those rules are, contingently, too complex for them to understand.

There may, however, still be some people who cannot be included on these grounds, perhaps because they cannot comply with the rules of any feasible social system. My account does imply that these people do not have the same claims on basic social institutions as those who are less profoundly disabled. It is not clear, however, why this should be a problem. There is still room for these claims in my account, in at least two places—

One possibility would be to insist that, forceful as these claims are, they don’t bear directly on the justice of background social institutions. Rather they bear only on how people ought to act within those institutions. On this view a society can have just background structures, even if the profoundly disabled are not treated fairly within it. Such a society would be flawed, and indeed profoundly flawed in other ways. At the very least it would be profoundly inhumane—and thus, perhaps, bad overall, even if it were in some sense just. And there might yet be a sense in which the society, taken as a whole, is profoundly unjust: it may be that people in it act in deeply unjust ways, when they ignore the claims of the profoundly disabled. But none of these flaws clearly entails the injustice of background social institutions. Though institutional background justice is necessary for justice per se; it is not always sufficient for it; this may be one of those circumstances where just institutions do not guarantee just behavior in the foreground.

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98 Whether there actually are turns on delicate questions about what is required to count as a person.
Perhaps, however, this sort of response will not work in the end—perhaps, as Nussbaum has suggested, it is objectionable in itself to exclude any moral person living within a territory from consideration in designing its most basic social institutions.\textsuperscript{99} Even if this is right, it is not necessarily a fatal objection to a contribution-based account of egalitarian justice. Such an account might simply restrict its scope; so as to claim, only, that, the resources that are left \textit{after} the claims of the profoundly disabled are met should presumptively be distributed equally among contributors (and contingent non-contributors).\textsuperscript{100} There is some reason to think that this is the sort of structure this kind of egalitarianism will need anyway; resources may need to be reserved from egalitarian consideration, to ensure basic liberties, or to meet obligations to outsiders or to future generations. A contribution-based account need not determine the scope of this reservation; it can only bear on how resources not thereby reserved ought to be distributed. Therefore it need not be an objection to a contribution-based egalitarianism that it does not take

I think we can conclude, then, that the fact that my account grounds egalitarian claims in contributions to society does not entail that it problematically excludes those who cannot contribute; many of these can be included in the scope of egalitarian justice, and many who cannot can still have high-priority claims, even if they lack contribution-based claims on basic social institutions.

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\textsuperscript{99} \textit{Frontiers of Justice}, 15f.

\textsuperscript{100} Cf. Richardson, “Rawlsian Social-Contract Theory and the Severely Disabled,” which proposes two 'hybrid conceptions' including a principle protecting the needs of the disabled in a position lexically prior to standard Rawlsian principles (differing in how they specify needs) at 437f. Stark, “How to Include the Severely Disabled in a Contractarian Theory of Justice” proposes (in effect) that the needs of the disabled be included in a position lexically subordinate to the difference principle.
So the main task of the chapter is complete: we’ve seen how the moral arbitrariness argument against inequality can be developed and extended so as to generate just the sort of objections to inequality that Rawls’s difference principle licenses. The key to this, I’ve argued, is to understand when and how our participation in society gives us claims on what society produces. Society, I argued, creates productive possibilities, not least by instituting a property system. This means that society produces opportunities to engage in production. Every compliant member of society contributes to this production, and everyone’s contribution counts as equal. Thus, contribution gives every compliant member of society equal claims, and more specifically, claims to have society structured so as to provide them with an equal chance to advance their conception of the good. These claims, however, don’t count if they’re pressed for fundamentally other-regarding reasons; thus they don’t count if they’re pressed against inegalitarian systems that leave everyone at least as well-off as they would be under equality.

This argument supports a presumption of equality in the distribution of prospects for acquiring material resources across all compliant participants in a social background system, and thus, supports an account of inegalitarian injustice on which it consists in a failure to give a fair return on our contributions to society. In the next chapter, I ask whether and how this account can be extended globally, concluding that it can be—that global inequalities can be unjust for much the same reasons that inequalities in a single society are often unjust.
CHAPTER 4: GLOBAL INEGALITARIAN INJUSTICE

Given its wide inequalities and deep deprivations, it seems clear that the world as a whole is not just in any egalitarian sense. But as we’ve seen this does not immediately entail that the world is unjust, because of its inequalities. Many maintain, to the contrary, that global inequalities are neither just nor unjust. They argue that egalitarian norms only apply under certain conditions, and that these conditions do not obtain globally.

Many of these arguments emphasize the essential role of the state in triggering egalitarian norms—equality matters, they maintain, between, and only between, those who share a state. Each tries to establish some feature possessed only by states as a necessary and sufficient condition for the applicability of egalitarian principles. For some this is the distinctively coercive character of state institutions. For others it is related to the putatively unique manner in which states are or can be cooperative enterprises. 101 Coercion or cooperation, so these arguments say, explains why egalitarian norms apply in the domestic case. But, so these arguments assume, the domestic case is the only clear and uncontroversial case for the application of egalitarian norms. So, they conclude, if we can fully explain the value of equality there, in a manner that

101 I will focus, here, on two examples of coercion theory, and one of cooperation theory. For coercion: Blake, “Distributive Justice, State Coercion, and Autonomy”; Nagel, “The Problem of Global Justice.” For cooperation: Sangiovanni, “Global Justice, Reciprocity, and the State.”
does not imply that it has value elsewhere, we can reasonably conclude that egalitarian norms do not apply anywhere else.¹⁰²

Granting the strength of the inference this argument relies on, here I challenge the justification its proponents give for their premises. Coercion-focused skeptics argue that state coercion must be justifiable to everyone subject to it. I argue in response that they have not shown why coercion must be justifiable in specifically egalitarian terms. Cooperation-focused skeptics, on the other hand, do a better job of showing why state institutions must be justified by reference to egalitarian norms—these institutions, they can say, produce important goods and are produced in turn by the equal contributions of their citizens; thus, their citizens have equal claims on the goods they produce. Something like this, I have argued in Chapter 3, is a promising argument for domestic egalitarianism.¹⁰³ In this chapter I show how a similar argument can be made about the global order, and particularly, about the system that makes separate sovereign states possible in the first place. This state sovereignty system itself is produced by the equal contributions of state citizens; thus, citizens of all states have equal claims on the goods the state system produces.

**Coercion Theories**

Attention to the coercive character of the state is a natural route to skepticism about global egalitarianism: if egalitarian norms apply only to those things that monopolize coercion, and

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¹⁰² Despite appearances, in moving from sufficient to necessary conditions, these arguments do not ‘deny the antecedent’, purporting to deductively infer necessity from sufficiency. Rather, they instantiate a reasonably strong form of inductive argument, from the premise that some sufficient condition C for a phenomenon P fully explains all clear cases of P, to the conclusion that unclear cases of P that do not meet condition C are probably not cases of P after all. Cf. here: Caney, “Humanity, Associations and Global Justice” pressing the concern that this sort of reasoning is problematic; Blake, “Coercion and Egalitarian Justice” clarifying its form.

¹⁰³ Cf. Chapter 3, above; one concern here is to show that a plausible cooperation theory of domestic egalitarianism should look very much like the account proposed there.
there is no world state to monopolize coercion, then egalitarian norms do not apply globally.

The most prominent proponents of this sort of skepticism argue from the claim that egalitarian norms can be fully justified as constraints on coercion to the claim that they can only be justified in this way.\textsuperscript{104} Here I consider, and offer reasons to reject, two such accounts, one due to Michael Blake, the other due to Thomas Nagel.

**Blake on Being Coerced.**

The economic systems of modern states are undergirded by a coercively imposed system of rules—particularly, the rules that constitute the *property system*. Michael Blake argues that the coercive imposition of these property rules is not justified unless those they are imposed on can’t reasonably object to the imposition. Hypothetical consent is required, according to Blake, because a principle enjoining respect for autonomy forbids coercing people without their consent. And where actual consent is unavailable, but coercion is still necessary, hypothetical consent can stand in instead—that you would have consented to my coercion can, Blake thinks, make it consistent with your autonomy, whether or not you actually do.\textsuperscript{105} Blake maintains, further, that respect for autonomy also determines the kinds of reasons we can reasonably appeal to in rejecting a proposed pattern of coercion—reasons relating to how different social systems affect our autonomy; including, reasons having do with how they affect the bundle of resources we can expect to rely on in pursuit of the good as we see it.\textsuperscript{106}

\textsuperscript{104} This fits the style of argument discussed in note 2; there relevant sort of ‘justification’ is moral rather than epistemic; it’s meant to show us why something (non-egalitarian state coercion) is wrong; not merely to give us evidence that it is.

\textsuperscript{105} Blake, “Distributive Justice, State Coercion, and Autonomy,” 274.

\textsuperscript{106} Cf. ibid, 283n32.
On Blake’s view, then, coercion is autonomy respecting if we don’t have autonomy-related reasons, including resource-related reasons, to reject it. If this is going to support a egalitarian view like Rawls’s, however, it will require a very strong conception of these reasons for rejection. Blake himself does not seem to realize this. So, he says:

“The principle I defend, therefore, mandates the following: that all individuals, regardless of institutional context, ought to have access to those goods and circumstances under which they are able to live as rationally autonomous agents, capable of selecting and pursuing plans of life in accordance with individual conceptions of the good” (Ibid. 271).

This principle seems to require at most that coercion leave the coerced well-enough off in terms of autonomy. But this is not enough to support Rawlsian egalitarianism. State coercion might make the least well-off much better-off then they would otherwise be, without making them as well off as they might be. Blake’s principle doesn’t tell us why the least-well off have an objection to these sorts of patterns of state coercion. Thus, Blake’s argument as it stands doesn’t support egalitarianism as against sufficientarianism; the autonomy principle Blake proposes supports, only, the claim that state coercion violates our autonomy if it doesn’t make us sufficiently autonomous. To support egalitarian conclusions, this argument would need a stronger sort of autonomy principle. It would need to say that state coercion disrespects autonomy if it leaves anyone worse off in material terms than anyone needs to be. Imposing a pattern of state coercion that has this result, so the argument would have to go, violates the autonomy of the person who could be better off under some other pattern.

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107 I’ll grant, arguendo, the tight link Blake supposes between resources and autonomy; thus going forward I’ll follow Blake in assuming that we are not autonomous enough if we do not have enough material resources; and not as autonomous as we can be if we have less material resources then we can have.

108 This is, again, even assuming that a resource-based objection comes to an autonomy-based objection.
The premise here, then, would have to be that coercive impingements on autonomy are not justified unless they *maximize* the autonomy of the coercee, relative to other possible ways in which coercion could be conducted. Since Blake does not realize that an autonomy-based argument for Rawlsian egalitarianism would require this maximizing principle, he offer no arguments for it; what arguments he offers, therefore, support a principle which cannot validly support egalitarianism. And in any case there are powerful arguments against the maximizing principle. Like many maximizing duties, this one is extremely demanding. It can require us to sacrifice much else of value, and even much in terms of the value of autonomy itself. Suppose, e.g., that, out of many people who find themselves in the Hobbesian state of nature, a few manage to escape it, by isolating themselves from the others and creating a coercive state. They have a responsibility, now, to maximize one another’s autonomy. So, on the maximizing principle, they are not permitted to rescue others from the state of nature, unless doing so somehow maximizes the autonomy of the least autonomous of those already coerced. Including outsiders might do this, but it might not; and if not, the responsibility of insiders is to leave the outsiders to their decidedly unautonomous fates—even if it would be very easy to save them. This hardly seems like the right sort of response to the value of autonomy.

So we don’t yet know, from Blake, how the value of autonomy is supposed to explain egalitarianism in the domestic case—we haven’t been given a plausible general principle of respect for autonomy that has specifically egalitarian (as opposed to *sufficientarian*) results. And it seems unlikely that we will find one, given the implausibility of principles that require even the conditional maximization of autonomy. Given the style of Blake’s argument, this is a serious problem. If our explanation of egalitarianism in the domestic case is importantly incomplete, then for all we know the elements we’ll need to complete it may cite features of states that are shared by non-state global institutions as well. So we don’t know, yet, that egalitarianism in the
A domestic case can be justified by reference to features of states not shared by anything global in scope. So Blake’s argument, as is stands, puts little pressure on global egalitarianism.\(^{109}\)

**Nagel on Coercing**

Thomas Nagel offers a different sort of coercion-based skepticism about global egalitarianism. Nagel locates the egalitarian import of state coercion as follows:

[... it is this complex fact—that we are both putative joint authors of the coercively imposed system, and subject to its norms, [...] that creates the special presumption against arbitrary inequalities in our treatment by the system. (op cit. 128)]

Here, Nagel’s account goes beyond Blake’s. The fact about states he cites is complex; it is not just the fact that state orders are coercively imposed on us that generates egalitarian demands. Rather it is also the fact that we on whom they are imposed are also the ‘joint authors’ of this coercive system:

[... society makes us responsible for its acts, which are taken in our name [...] and it holds us responsible for obeying its laws and conforming to its norms, thereby supporting the institutions through which advantages and disadvantages are created and distributed. (129)]

We are the authors of state coercion because our society makes us responsible for its actions.

How does it do this? He says: by acting in our name, and holding us responsible. Some of Nagel’s critics have taken this to mean that we become responsible for what the state does just because the state says that we are.\(^{110}\) This is implausible in itself—your simply saying that I am

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\(^{109}\) Blake suggests that his account supports intra-state egalitarianism even if it doesn’t ground original-position-style reasoning (or rather, since he doesn’t consider this possibility, even if original-position reasoning doesn’t ground egalitarianism): since people will not be sufficiently autonomous unless inequalities are constrained in some way. (Ibid., 284). That may be so. But if so, that would be a pyrrhic victory, for Blake: this sort of principle defends a much narrower conception of inegalitarian injustice than the one most of Blake’s targeted interlocutors (Rawlsians) will find themselves sympathetic to; that makes the argument form sketched in n2 weaker, here, since it is no longer appears that Blake’s account can explain egalitarianism in all the clear cases. But then, what explains it in the cases his account leaves out might vindicate some global egalitarianism norms, as well.

\(^{110}\) Cf. here Abizadeh, “Cooperation, Pervasive Impact, and Coercion,” 351f. Julius, “Nagel’s Atlas,” 283f; claims that the relevant criterion isn’t what the state says about our reasons or responsibility, but
responsible for what you do doesn’t make it so. And it is doubly implausible if we take this responsibility as a sine qua non for our egalitarian demands—it makes it too easy for the state to escape those demands, by, simply, ceasing to make a certain claim about our responsibility.

We do not need to take Nagel’s claim about responsibility in this deeply implausible way. Whatever else we can say against Nagel’s account, this aspect of it is plausible, and even, in some ways, promising.\(^{111}\) We can plausibly say that the state \textit{acts in our name} in the sense of: \textit{acts on our behalf}, or does something for our benefit, in a way that makes us at least somewhat responsible for that action. Among other things it, it rescues us from the state of nature.\(^{112}\) And sometimes, when something does something like this for us, we become at least partly responsible for whatever else they do in doing so.

This kind of responsibility-acquisition happens, most clearly, when we voluntarily assign someone to be our agent or delegate. Suppose, say, that, while out of town, I learn that my apartment has flooded. If the plumber I hire to take care of it saves my apartment, but in the process accidentally damages yours, I owe you some kind of compensation.

But conferral of responsibility can also happen without actual consent. E.g., when I would consent, though I can’t—the plumber hears about the flood, can’t reach me, but knows what I’d want him to do. And it even happens, sometimes, even if as a matter of fact I \textit{would not consent}, if I could. Suppose, e.g., that the plumber, hears about the flood, and can’t reach me. But this time he knows me well enough to know that I hate it when people do anything in my home rather whether we \textit{believe} that we have reasons to obey the state, and thus to take responsibility for what the state does. This is a different interpretation; but it has similar critical upshot: either way nakedly illegitimate tyrannies escape egalitarian responsibility.

\(^{111}\) Indeed it is, I will argue, an important part of the whole story about egalitarianism; though, I will also argue, it is not enough to tell that story in full

\(^{112}\) Nagel, “The Problem of Global Justice,” 133.
without my express permission. But he fixes it anyway, because he also knows that if he doesn’t, my apartment will be destroyed, along with several others in the building. In the process he again damages your apartment (say, not one of the ones that would have been destroyed anyway). It would be unfair for me to insist that you bear all the costs of this accident: I should help you clean up or pay you so that someone else can.

Nagel can plausibly say that we share some responsibility for what the state does on our behalf, for much the same reasons that I share some responsibility for what the plumber does on my behalf. When someone acts to benefit us, in a manner we have reason to endorse, when we accept those benefits are claim on them are conditioned by a share in the responsibility for the actions that produced them. This, I take it, is a fairly minimal departure from the standard, consent-requiring, conception of responsibility-acquisition: though it does not require consent per se for me to acquire responsibility from someone else, it does make what we are responsible a function of the (benefits-accepting) choices we make. If, as I will suppose, we should grant Nagel this principle, then he can make an argument that is much more plausible than the one he is usually taken to have offered. He can argue, first, that we have reason to accept state coercion, not least because it rescues us from the state of nature. And, then, second, that we accept the benefits of state coercion simply by staying in our states and complying with its laws (if we left our state, or stayed within it but lived as outlaws, we could not expect to benefit). It would follow that the use we can legitimately make of the benefits of social life is constrained by a share of the responsibility for its costs.

So interpreted, Nagel’s account carries no implication that the state can make us responsible for anything simply by ‘saying so’: states have to coerce us in ways we have reason to endorse, before we become responsible for what they no. And it does not imply that states can avoid egalitarianism demands simply by failing to ‘say so’: whether they are responsible
depends, not on what the state says, but, rather on whether it does enough for us that we have reason to accept the benefits of its existence. And, so Nagel could say, in Hobbesian spirit, any state that functions as a state – that rescues us from the state of nature – does enough; so long as it saves us from the state of nature.\textsuperscript{113}

However, even if, as I assume, Nagel is right that we each share some responsibility for state coercion, it remains to be seen how this share of responsibility gives us egalitarian claims on the conduct of that coercion. Nagel has little more to say here than that:

Insofar as [state-governed] institutions admit arbitrary inequalities, we are, even though the responsibility has been simply handed to us, responsible for them, and we therefore have standing to ask why we should accept them. (op. cit. 129)

In effect, this is to say that our responsibility for coercion gives us a right to a particular sort of justification for that coercion. We know part of the rationale for this, now: you cannot do something in my name unless I do, would, or should endorse what you do (unless you have my \textit{actual, hypothetical, or normative} consent). But actual consent cannot support egalitarianism here; people, after all, may consent to inegalitarian states, or fail to consent to egalitarian states. And, as the plumber example showed, in this case hypothetical consent reduces to a kind of normative consent: what matters is not what we would have consented to, as a matter of fact, but rather what we should have been willing to consent to. Contractualist constructions like the Rawlsian Original Position argument are not meant to limn non-normative facts about what actual people would have agreed to if they had been placed in certain very unusual circumstances. Rather their purpose is to show what kinds of social systems we have \textit{reason} to agree to—or, as it’s sometimes put, which systems we \textit{cannot reasonably reject}.

\textsuperscript{113} This, emphatically, \textit{does not} mean that states are legitimate or just because they save us from the state of nature; but rather that they are subject to standards of legitimacy or justice in the first place, because they do.
So to get determinate results, these hypothetical (-*cum-*normative) consent arguments need some conception of the reasons that bear on rejecting proposed systems. The conception that supports the egalitarian results of the original position reasoning allows us to reject proposed systems solely on the grounds that there is a risk that our worst-case scenario under them is worse than our worst-case scenario under some other system. But we can imagine devices like the original position that have different results; for instance, those that make the parties less risk-averse, and therefore allow systems where the worst-off are worse-off than they could be, so long as others are better-off enough to make this a good bet for all of the parties. Thus the bare idea that our social system must be justifiable to those subject to it does not suffice for egalitarianism, even if the original position argument taken in full does. That requires, in addition, a particular account of the grounds on which justification within the hypothetical procedure must proceed. And that in turn will need to be supported by some substantive principle that says why the justification coercive institutions owe us must proceed in egalitarianism-implying terms.

As we saw above, Blake’s attempt to justify egalitarianism by way of a principle enjoining respect for autonomy does not satisfy this demand. Nagel’s account, ultimately, does little better, here. Hypothetical consent to state coercion is required, Nagel says, because it is wrong to make someone responsible for a pattern of coercion that they have reason to reject. But Blake’s principle of autonomy told us this too. The problem with both accounts is that they don’t say what those reasons for rejection are, in a way that plausibly supports egalitarianism. That’s a serious problem, given their argumentative strategy. They can’t just say that their arguments establish the need for hypothetical consent, and then insist that a separate account of the conditions for hypothetical consent supports egalitarianism. Until we know what that account

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114 Rawls considers and rejects the possibilities at, e.g., *TI (rev)*, 145f.; *JF*, 98f.
looks like, we don’t know that it won’t cite conditions apart from coercion that suffice in themselves for egalitarianism. And in fact, I go on to argue, once we see why citizens of state orders have specifically egalitarian claims on state orders, we’ll see that they do in fact have egalitarian claims on global orders as well.

**Sangiovanni on Cooperation**

Andrea Sangiovanni argues that the egalitarian norms apply within states because, and therefore, probably, only because, state orders produce important goods, and are produced in turn by way of the cooperation of all those subject to them. Because we all cooperate in constituting basic social institutions, Sangiovanni says, those institutions must be justifiable to each of us. And if this is why justification is required, then inegalitarian institutions are not justifiable, or, anyway, are only justifiable under the narrow range of circumstances recognized by the difference principle. The thought is that those who could claim a larger share cannot justify those claims to others. To these high-flyers we can say:

‘[...] consider the way in which your ability to make use of your talents depends on the contributions of others. [...] the very market in which your talents are valued depends [...] on the system of law governing your territory, and [on] others being restrained by that law.

Second, consider that it is not only the market that depends on the contributions of others but also the opportunities you have had to develop your talents. [...]’

Your talents, efforts, and skills, that is, have been able to win you social advantages only through the cooperation and contributions of other citizens and residents [...].

‘It is for these reasons that by constraining yourself by principles of justice that treat your social and natural advantages as morally fortuitous aspects of your circumstances, you give others a fair return for what everyone else has given you.’ (op. cit., 25-26)

As we’ve seen, this is how a Rawlsian social contract view should employ the moral arbitrariness argument. As I argued in the last chapter, we should understand that as an argument that certain considerations are off the table as justifiers of inequality. And this is how Sangiovanni appears to take it. However, as we also saw there, it’s not enough to explain why inequality-
generating differences between persons are morally arbitrary in this sense. We need to know, not just that there are no reasons of these kinds to distribute things unequally, but also that there are significant reasons to distribute them equally.

Sangiovanni’s account does not explicitly offer us an account of this presumption of equality. However, it clearly has the materials to do so. If our capacities are converted into productive talents by way of a social background system, and that background system is a product of everyone’s cooperation, then that cooperation play an important role in making the things that societies distribute. And that gives everyone a claim on these things.\textsuperscript{115}

Still, it doesn’t follow from the fact that everyone has a claim on social resources that these claims are relevantly equal. Sangiovanni seems to say that those who contribute more do not have additional claims because their ability to contribute more depends critically on the contributions of others. But very often, important goods are cooperatively produced by processes that would not come off unless everyone did their part; still, in some of these cases, some seem to contribute much more than others in a manner that bears on what they should get in return. Say, I need a little more capital to start my bakery, though most of the investment will be mine; you do not get an equal share of the proceeds for providing the funds that put me over the top. So cooperation theory needs some other account here of why cooperation in the constitution of state institutions is special, such that the kinds of contributions people typically make to it count as equal for the purposes of dividing up the benefits and burdens it produces.

To provide this account, I think, we need to bring in some insights from coercion theory, and particularly, the Nagelian observation that we can become responsible for state institutions by

\textsuperscript{115} I showed how this works in more detail, in Chapter 3.
benefiting from them.\textsuperscript{116} As I pointed out in the last chapter, not all factual differences in contribution to production matter morally for distributing its products. Among other reasons, this is because, when I’m only able to contribute more than you, because I’m complicit in imposing the conditions that make my contributions more productive than yours, I can’t reasonably claim that my greater contribution entitles me to a greater return. But this is exactly what happens when we together constitute a social order—we thereby impose just one among many possible profiles of productive activity. And those who are more productive or ‘talented’ in one scheme would be less productive in another, and vice versa. That means that those suited to be productive in a given system—‘the talented’—don’t have any sort of prior entitlement to what they can get from their talents. The talented accept the benefits of the system as it is; per Nagel, this gives them a kind of responsibility for its being that way. And so, they can’t make claims to greater reward based solely on their talent—since their talent is just the upshot of the system they are responsible for imposing.

Putting together these aspects of Nagel’s coercion theory with Sangiovanni’s cooperation theory, we can make a case for intra-state egalitarianism that avoids the objections leveled against Blake and Nagel, above. That, basically, is the line of egalitarian argumentation developed in Chapter 3. Everyone who complies with basic state institutions counts as cooperating in their constitution.\textsuperscript{117} This means that everyone has a claim on the goods they produce. And it also means that everyone has a (presumptively) equal claim. Compliance, here, generates responsibility for imposing terms of cooperation on others. But if someone is

\textsuperscript{116} The discussion of Nagel in the last section can thus be understood as offering some further arguments for the claims about responsibility I made in chapter 3. For another account of our responsibility for state institutions, cf. Young, \textit{Responsibility for Justice}.

\textsuperscript{117} Sangiovanni mentions other indices of contribution—including, “trust, resources, and participation” (op cit. 21). But it seems clear that compliance should be sufficient in itself – otherwise, the account implausibly excludes those incapable of, say, paying taxes, or participating in the political process.
responsible for imposing the terms that make their contributions to cooperation more productive than mine, they cannot claim greater returns on the basis of greater productivity. Thus all compliant members of society have equal claims on socially produced resources.

I go on to argue that this cooperation-based account does not preclude the possibility of global social justice. In fact, it presupposes it. Further, it does not even preclude the possibility that the requirements of global social justice are egalitarian; in fact, I argue a cooperation-based account of domestic egalitarianism, properly understood, actually supports global-egalitarian conclusions.

**Background Conditions for State Cooperation**

So: Cooperation theorists like Sangiovanni claim that our (relevantly equal) contribution to the constitution and maintenance of our state orders gives us equal claims on something produced by those orders. To see how this presupposes global social justice, notice that we can’t know what claims a contribution to production yields until we know something about the background conditions under which it occurs; e.g., something about which forms of control over productive inputs and outputs are available.\(^{118}\) Unless we know this, we can’t evaluate the distributive import of productive cooperation, since we don’t know what would happen if cooperation went differently. Some background conditions, concerning, e.g., the nature and distribution of available property rights, must be assumed, to fix these subjunctive facts. But we cannot in general simply be agnostic as to whether these conditions are just. If my contribution

\(^{118}\) For more on the import of background conditions for justice, cf. Ronzoni, “The Global Order;” which, following Rawls, (“The Basic Structure as Subject”) offers some other reasons to think that we cannot evaluate the justice of the particular interactions that occur within an institutional order without evaluating the background justice of that order. My point differs from Ronzoni in focusing on the background conditions for fair returns from contribution to production, rather than on the conditions that allow free and fair agreements.
is larger than yours because of unjust background conditions—say, because I control things I should not have a right to control—my claims to a greater return lack force.

These points hold for the production of state orders themselves just as much as they hold for the production of goods within those orders. If we don’t know whether it is legitimate for people to contribute compliance in this particular way, and then, whether it is legitimate for them to thereby constitute orders with a monopoly of coercive force over a territory, then we don’t know how to evaluate the import of their contribution. For this reason, Sangiovanni’s suggestion that his account need not justify the state system itself—“I see no reason why [my view] needs to provide a justification for the existence of the state system” (38)—is unwarranted. Sangiovanni says that his account is simply an account of what follows if we do in fact have states; under those conditions, each gets egalitarian claims on his own state, and only his own state, in virtue of the fact that this is the only order he makes the relevant sorts of contributions to. But if the conditions that make the production of states themselves possible are unjust, then the question of how to distribute their fruits is not simply a question of what’s owed to those who help produce them.

Of course, nothing I’ve said so far shows that the background conditions for state production are, indeed, unjust. Still, the points made thus far already have significant force against Sangiovanni’s attempts to use cooperation theory to restrict egalitarian morality to the state. Recall that this argument, like the coercion-theoretic arguments considered above, must make us reasonably confident that it has offered explanatorily complete sufficient conditions for the applicability of egalitarian norms in the paradigmatic, domestic, case. Only then is it reasonable to infer from the (putative) fact that these conditions do not apply outside the state that egalitarian norms do not apply there either. Otherwise, the argument does nothing to exclude the possibility that the explanation of domestic egalitarianism we have in hand is a
special case of some more general explanation that applies to the global case as well; thus, it
does nothing to exclude the possibility that global egalitarianism is true after all.

Global Cooperation

Indeed, I will argue, that is the case here—just as the moral import of our equal contribution
to state order constrain the distribution of particular goods within those orders, so too do
similarly-sourced egalitarian claims on global order constrain how state can constrain particular
production. If, as I argued in Chapter 3, we have egalitarian claims on state orders, in virtue of
the special sorts of contributions we make to them, then we also have egalitarian claims on the
state system itself. This is because the state system is produced by compliance in much the
same way that particular states are produced by compliance. Granted, it is not produced,
directly, by the compliance of individual people with sovereignty norms. Rather, this system is in
place, in the first instance, because states themselves comply with its norms. But the state
compliance that produces the sovereignty system is itself produced by individual compliance.
Thus everyone who complies with a state contributes—albeit indirectly—to the production of
the state sovereignty system. Further, the terms on which they contribute to that system are
imposed on them by other contributors; thus those who contribute more under the going
system cannot claim more in return, since they are responsible for the conditions that allow for
their greater contribution. It follows that everyone has relevantly equal claim on the goods the
state sovereignty system itself produces.\footnote{119}

This section defends these premises in turn.

State System Produced by Everyone

\footnote{119 More on what those are later.}
The state sovereignty system is the system of norms that defines the form of control that a state can have over a territory. In this respect it is like a property system, which defines the forms of control a person can have over things in the world. And, a sovereignty system, like a property system, is a social creation: the profile of forms of control over territory available at any given time is a selection from many possible profiles.\(^{120}\) So, e.g., a system that allows unmitigated authority in a state’s territory cannot also be a system that limits state authority according to a conception of human rights. Similarly, a property system that allows absolute control over owned land cannot also be a system where all land is available for any kind of common use.

Property systems, I have argued, are produced by compliance: which system is in place is a function of which norms people comply with. Sovereignty norms are in place because of compliance as well. But sovereignty norms constrain states, rather than individuals.\(^{121}\) Thus they seem in the first instance to be the product of state compliance, not individual compliance. This may look like a problem for extending my argument for egalitarian constraints on the design of property systems, into an argument for egalitarian constrains on the design of sovereignty systems.\(^{122}\) Compliance, on my view, is what drives domestic egalitarianism: because we comply with domestic property norms, we count as producing them; and that, I have argued, gives us equal claim on whatever it is that property norms produce.\(^{123}\) If individuals do not comply with sovereignty norms, then it may seem as if nothing I’ve said here goes to showing that they have

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\(^{120}\) Here I review arguments made in Chapter 2.

\(^{121}\) Or so I will suppose, arguendo; if they constrain individuals directly, than my argument for global egalitarianism goes through without complication.

\(^{122}\) Or, anyway, into an argument that gives individual people egalitarian claims.

\(^{123}\) Per Chapter 3, something like: opportunities to produce particular things.
claims on what those norms produce; after all, only states comply, and thus, for all I’ve said, only states get claims.

However, what generates our claims in the domestic case is not the mere fact that we comply, but rather the fact that our compliance contributes to the production of the property system. And it should be clear that complying with one system of norms can count as contributing to the production of a different system. E.g., the fact that my students comply with the rules I impose in my classroom helps constitute the social fact that these rules are in place there. But my student’s compliance can also support the rule-system of the university as a whole—even the parts of that system that are rules they cannot comply directly with. My university may not have any rule requiring students to comply with the rules a professor makes in his or her classroom; but rather, only, a rule that forbids any university employee apart from the professor from making rules there. Only university officials can comply with this rule directly. But facts about whether this rule is in place with depend, not just on what university employees do, but also on what students do: if students ignore the putative rules of non-professors this rule is de facto authoritative; otherwise, it is not.

Sovereignty norms are a bit like this: only states can comply with them, but states count as complying because of facts about individual compliance. Two kinds of intra-state compliance in particular are important for constituting the state system. Whether a state is actually sovereign in a particular territory depends constitutively on which laws the people there comply with. E.g., the Falkland Islands are under de facto authority of the United Kingdom, and not Argentina, because Falklanders obey UK laws and not Argentinean laws.124 This holds for undisputed territories as well— the United States has sovereign control over Kansas in virtue of Kansan

124 To be clear: claims to sovereignty in a territory are claims to be de facto authoritative there; that is, for it to be the case that one’s commands are generally followed.
compliance with US laws. More generally, the fact that state borders are where they are in our world is realized by a whole patchwork of these sorts of facts about individual compliance. But it’s not just where borders are drawn that depends on what intra-state rules certain individuals comply with—it’s also the meaning of borders, wherever they are drawn. Suppose, for instance, that state security officials routinely refused orders to violate international human rights norms. This would mean that states have a different, less complete, sort of control within their borders then some states actually do have—full sovereignty would be less available in this world than it is in the actual world.

So: the state sovereignty system is in place, in the form it is in place in, because of facts about individual compliance with state norms—compliance on the part of citizens and state officials fixes the facts about who is sovereign in what way in what territory. This makes particular acts of compliance with intra-state norms constitutive of the going sovereignty system; not merely part of a sufficient condition for its practices to be in place, but part of what it is for them to be in place. This, as I argued in Chapter 3, is the kind of contribution that matters for generating claims: not, merely, causal influence, but rather, literally, participation: being part of the process that produces some good.

Thus, though individuals globally do not comply, directly, with sovereignty norms, their compliance with other norms means they do their part in the production of sovereignty norms. This gives them forceful claims on the (yet-to-be-specified) goods the sovereignty system itself produces.

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125 Not every cause is constitutive in this way; often, a stimulus is not part of a response. The knife I cut my finger with, for instance, is no part of the process that heals the wound.

126 To be sure, no individual’s compliance is required; however, as I argued in Chapter 3, contributions to production do not have to be essential to production to generate claims on what’s produced.
State System Produced Equally by (Almost) Everyone

But it doesn’t follow from the fact that we all have claims on the sovereignty system that we all have equal claims. Even if all those who comply with state rules contribute to the constitution of the state sovereignty system, some might contribute more than others, in a way that matters for dividing up the products of the cooperative endeavor they are contributing too. This could happen in two ways: either some subjects of a given state (say, officials) contribute more than others in that state do; or the subjects of one state (say, a superpower) contribute more than the subjects of another do. If, on the other hand, everyone in every state counts as contributing the same as everyone else in that state, and every state counts as contributing the same as every other state, then everyone’s contributes count the same as everyone else’s.

I claim that this is the case for the global sovereignty system, for much the same reasons I claimed it was the case for domestic property systems, in Chapter 3. Given the fact that we impose these systems on one another, claims based on contributions beyond compliance cannot reasonably be pressed as reasons to choose one sort of system over another. This is so even if, as seems plausible, some citizens within a given state contribute more to that state’s sovereignty-constituting compliance; while some states contribute more than mere compliance to maintain and improve the sovereignty system. If these difference in contribution were not a result of changeable features of the global order—if, say, there were only one possible way to constitute a global social order; and some people are sure to contribute more when we constitute it that way—then they might make well make a difference to who should get what.\(^{127}\)

But, so I am about to argue, they are not in this way independent of the choice of sovereignty system; rather, they are the upshot of it. This means that no one can reasonably seek benefits from this system in a manner unconstrained by the responsibility they bear for its costs;

\(^{127}\) If, say, people, like ants, could organize their productive activities in only one way.
including, the ways in which it makes it difficult or impossible for others to contribute as much as they do.

Taking intra-state difference first: so, e.g., both law-abiding citizens and state officials contribute to the constitution of the state sovereignty system. But state officials seem clearly to contribute more. For one thing, if they themselves are law-abiding citizens of their states, they contribute that compliance, and, also, whatever they contribute as officials.

Even if state officials do contribute more, however, it doesn’t immediately follow that their additional contribution means they should get more. As I argued in Chapter 3, if they share responsibility for imposing the conditions that allow them to contribute more than others, they can’t claim greater returns on grounds of that contribution. And in fact that’s exactly what’s going on here. Someone’s suitability and willingness to work as a state official depends critically on social facts for which state officials themselves share responsibility. These include both facts about the state system as a whole and facts about particular state orders. So, e.g., in a state system characterized by a large and complex system of treaties, diplomats will need a lawyerly cast of mind; a system that relies more on trust and mutual understanding will encourage different sorts of people to be diplomats. Within a state, various vagaries of the system for training and hiring state officials will critically shape who winds up working directly for the state; if, for example, aspiring civil servants take a test, state officials will need to be good test-takers. State officials accept the benefits of these systems; thus, they share responsibility for them. And that means that they cannot claim greater returns on grounds of the greater contributions these sorts of systematic facts allow.

Within a given state, then, no one gets more claims than anyone else by contributing to their state’s contributions to the global order. But that leaves it open that the citizens and officials of one state each relevantly contribute more than any of the citizens or officials of
another state. Imagine, for instance, a world order where states are very unequal in size and power. One small group of states is so powerful that, unless most of them actively engage with the state sovereignty system, it will fall apart—say, they together provide a ‘policing’ function that effectively deters wars of aggression. Other states are not essential to the system in this way: if they withdraw from it, or fall apart completely, the system will otherwise go on functioning much as it had been functioning. One might thus think that the citizens of the policing powers contribute more than the citizens of the less essential states.

There may be a sense in which this is so. However, it is not the sense that matters for the purposes of dividing up the goods that are produced by the system of sovereignty itself. World-policing powers can exist because of facts about the state sovereignty system itself. If, for instance, military leaders routinely refused orders to engage in aggressive war, there would be no need for world policing. In that case the contributions that ‘lesser powers’ bring to the table might be more essential. And in any case, the very fact that some states are relevantly more powerful than others is a reflection of the fact that the sovereignty system allows for large and powerful states; if the rest of the world did not recognize their claims on their territory or their resources, they would not be able to utilize these resources to contribute to the state system in the first place. Differences in the ability of states to contribute to the global order therefore reflect contingent facts about the character of that order. Powerful states share responsibility for these systemic facts; since they are thereby implicated in imposing this system on those who cannot contribute as much, under it, they cannot claim greater returns on grounds of their greater contributions.

So every law-abiding member of any state that complies with the state sovereignty system counts as contributing equally to that system. Each thus gets an equal claim on the (yet-to-be-
specified) goods that system produces. One might wonder, however, about people who do not seem to contribute in this way. So, for example, some people do not comply with the laws of their state. Some people do not have a state to comply with. And some other people do not live in states that comply with the state system. To be clear about the force of these cases: nothing I’ve said so far implies that these people are not objects of egalitarian concern. I have argued, only, that if you contribute compliance to your state, you get a claim on what’s produced by the state system that is just as good as the claim that others get by contributing to that system. But my account is supposed to explain actual global inegalitarian injustice. If some actual inequalities seem obviously unjust, even though some parties to them do not comply with any state, then it looks clear at the outset as though my account will not be able to explain everything it seeks to explain. This may give a reason to doubt my account that comes, not from skepticism about global egalitarian injustice, but rather from an alternative global-egalitarian direction.

On reflection, however, it looks likely that the same underlying principle that supports mere compliance as a sufficient condition for equal contribution can support sufficient conditions for counting as an equal contributor that fall short of compliance, as well. That principle says, basically, that is unreasonable to claim that you deserve more than someone else, on account of having contributed more to some enterprise, if you share responsibility for the conditions that leave them unable to contribute equally. This supports the thought that contributing compliance is enough to count as an equal contributor, since those who would contribute more than compliance are responsible for the conditions that facilitate them and not others in doing so. But it also supports treating the non-compliant as equal contributors, too, when their non-compliance is the fault of the system they are not in compliance with. Ignoring their claims in this case would be manifestly unfair—too close for moral comfort to punishing them for doing
something you made them do. Thus, if many who do not contribute compliance to the state system do not do so because of the system is not set up as it should be, many non-compliers may still have egalitarian claims.

So: at least when the non-compliant are non-compliant because they are excluded from compliance, the fact that they do not contribute compliance cannot justify inequalities between them and the compliant. This is for precisely the same reason that contributions beyond compliance do not generate additional claims; because inequalities cannot be grounded in differences in contribution that those who benefit most are most responsible for.

**What the State System Produces—**

I conclude: at least every compliant member of every compliant state counts as an equal contributor to the constitution of the state system; that gives at least all of these people equal claims on the goods produced when that system is constituted. But what goods are those? In Chapter 3, I argued that state orders themselves primarily produce opportunities to produce particular things. A property system in particular produces productive opportunities, because it makes it possible to produce in many ways that would not have been possible with a different property system, or with no property system at all. Insofar as we can expect how we do to be linked with how productive we are, we have reason to want this system to be structured so as to allow us to be as productive as possible. Thus our claims on the property system itself are claims on the value to us of opportunities to produce, rather than on particular produced things.

Something similar can be said about the state sovereignty system. It certainly does not produce particular concrete things; those are produced when particular people take advantage of the opportunities afforded by particular property systems. Nor, we can suppose, does it produce productive opportunities directly. Those, I will suppose, are produced by state-based
property systems. However, the state sovereignty system does make it possible for particular groups of people to produce property systems themselves, in ways that would not be possible with a different sovereignty system, or with no sovereignty system at all. Insofar we have reason to want opportunities to produce particular things, and insofar as we can expect whether we have those opportunities to depend on whether we contribute to particular state orders, we have reason to want the opportunity to contribute to state order. So our egalitarian claims on the state system are doubly higher-order. They are claims on the worth to us of certain higher-order opportunities: opportunities to have opportunities to produce and acquire particular things, within a property system.

**Global Inegalitarian Injustice**

So, I have argued: plausible premises for a cooperation-based account of domestic egalitarianism support global egalitarianism as well. Supposing that the premises of this sort of argument are correct, it seems clear enough that the world system, as we find it, does not meet the egalitarian standard they establish. This is so even though it is not as yet entirely clear how to tell whether this standard is met. It should be clear, however, that it requires that basic global institutions be structured a certain way—namely, so as to give everyone the value of an equal chance to acquire particular goods by participating in the property system of some particular society or other. It is an open question whether this requires, say, that some global agency actually seek to promote equality in terms of some index of material resources or other. But it should not be an open question whether this egalitarian standard requires something the world system as it stands does not provide. Whatever, exactly, a state system that distributed the worth of these opportunities equally would look like, it can’t possibly allows millions or billions

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128 I don’t know whether this supposition is true; if it is false, however, and there is a global property system, global egalitarianism is already strongly supported by the arguments of Chapter 3.
to suffer under states that do not afford them the opportunity to make even a decent living for themselves, while millions or billions more live in states that exploit this situation to provide their citizens with opportunities to live radically richer lives than practically anyone, practically anywhere, has ever lead.129

Thus, though the arguments offered here are normative and philosophical, and so on their own incapable of showing directly that the world is unjust, the standard they establish is lofty enough that it’s hard to see how our lowly world order could meet it. We can conclude from this argument, then, that the world at large is, after all, probably an unjust place. And if the normative premises that support this conclusion are correct, then the world order is, therefore, unjust in much the same way that many (most? all?) actual states are unjust; both particular states and the state system are unjust because both fail to provide fair returns for the contributions required to constitute them.

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129 Pogge, *World Poverty and Human Rights* summarizes some of the relevant empirical data.
CONCLUSION

My dissertation has argued that the global institutional order is unjust in much the same way that many or all existing state-based societies are unjust—because it fails to give everyone who contributes to it a fair return on their contribution. Social justice, I argued in Chapter 1, is about the moral quality of the sorts of distributive practices characteristic of state-based societies. In Chapter 2, I argued that the state system is evaluable at the bar of justice for the same reasons state-based property system are—each affects distribution in a fundamental way by making secure and determinate control of particular things possible. Chapter 3 argued that state property systems are constituted by the equal contributions of all those subject to them, and thus that they are presumptively unjust if they do not equally distribute the productive opportunities they generate. And Chapter 4 argued that much the same goes for the state sovereignty system itself—it also employs the equal contributions of those subject to it to produce a kind of opportunity, which, therefore, justice presumptively requires it to distribute equally. It clearly does not meet this egalitarian requirement: thus, it is socially unjust.

These arguments help us to understand global injustice, and so to see why many of our world’s more obvious moral flaws are the result of practices that can and should be changed. Admittedly, however, as they stand they can only constitute a small part of even the broadly philosophical part of the larger intellectual project of understanding what it would mean for our world as whole to be just. That is, even leaving aside empirical questions about whether our actual world meets the normative standards they purport to establish, there are still many questions concerning those standards themselves. Some of these concern the premises that
support those standards, while others concern how the conclusions these premises support ought to be interpreted.

So, e.g., Chapters 1 and 3 make a variety of potentially contentious claims about the *aims* and *methods* of our practices of distributing scarce resources in the face of competing claims. Chapter 1 argued that certain analogies between the concept of social justice and other normative concepts support the supposition that this concept evaluates distributive practices according to how well they do with respect to these aims and methods. Chapter 3 then makes some particular claims about the aims of social distribution: particularly, that they involve mutual advantage in such a way so as to ensure that egalitarian justice does not require leveling-down. At present this last claim is at best a working hypothesis, meant to show at most that the egalitarianism I defend here need not have implausibly egalitarian consequences. To fully evaluate it, we’d need a better conception of the status of these sorts of claims about the aims and methods of practices.

The egalitarian arguments of Chapters 3 and 4 also rest on some potentially controversial claims about *responsibility* in the context of basic social cooperation. The common core of these arguments is the claim that justice presumptively requires that the goods produced by basic social institutions be distributed equally among all those subject to them, since all such subjects count as equal contributors to the production of those goods. This claim about contribution follows, I argued, even if there are some good senses in which some contribute much more to basic social institutions than others. Even then, high-contributors are too responsible, for the conditions that lead others to contribute less, to reasonably claim greater rewards on the basis of the difference. But that, of course, rests in turn on the claim that high-contributors are responsible for basic social structures in the first place. The thought is that, at least so long as they have reason to accept these structures, they cannot press claims on the benefits they
produce without accepting responsibility for the burdens they impose on others. Though I believe this claim is plausible in itself, I grant that it will be controversial; more would have to be said about difficult questions concerning complicity and collective action to make the case for it fully convincing.

Certain critical premises of my arguments, then, are more like working hypotheses than firm foundations. My hope, however, is that the framework as a whole is plausible enough to give us reason to take these hypotheses and their consequences seriously.

If these hypotheses are correct, then it follows that significant egalitarian standards apply to global institutions, for much the same reasons that egalitarian standards apply to (non-global) societies. This, of course, is important in itself: it undermines going claims that there is a sharp discontinuity between social morality within the state and social morality outside the state. This helps us to understand something about what makes our world unjust—global orders are unjust because they produce inequality. It does not, however, tell us exactly what a justly equal global order would look like, in any very specific or determinate way. To see this we’d have to know more about how to interpret the standards established here. Two sets of issues are particular pressing here—

Chapters 2 and 4 argued that the sovereignty systems produces a kind of opportunity; namely, opportunities for groups of people to constitute property systems that will make the production of more particular things possible. Chapter 4 argued that the worth of these higher-order opportunities ought to be distributed equally amongst most or all people globally. But it is not clear at the outset just what, exactly, this would involve. For one, it is still not entirely clear what this notion of the worth of opportunity comes to. This makes it hard to see just what it would take for an individual to enjoy the worth of an opportunity to do something (constitute a practice) that no individual can themselves do. That said, it seems clear that there should be

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some answer to this question—surely it is worth something to me to be part of a groups that is self-determining in this way—but admittedly, nothing said here goes very far to providing it.

There are, then, hard questions about what it would mean for the state sovereignty system to distribute what it produces equally. Even if we had answers to those questions, however, we might not, yet, know what a just world order would look like. We would know, only, what justice requires of us if we have a state system. We would know, e.g., what sorts of powers and prerogatives states should have. We might find out that no state should be as sovereign as some states are now. We might even find out that nothing should be sovereign enough so as to count as a state in the first place. But even if this is not how this goes—even if it turned out that a state system can distribute what it produces equitably—that wouldn’t show that a just world involves a just system of states. Perhaps states shouldn’t be produced in the first place. The considerations offered here may turn out to be insufficient to settle this difficult issue.

My conclusions, then, suffice to tell us something important about global injustice: they tell us that our world as a whole is unjust because of its inequalities. But this account of global injustice is not complete in itself; nor does it translate, directly, into an account of global justice. Further inquiry will be required to determine exactly which global inequalities have to be absent for egalitarian global justice to be present.

So: my dissertation has argued that our social world as a whole is unjust for the same egalitarian reasons that many existing state-based societies are unjust. Admittedly, this conclusion is not rationally inescapable—those who deny the global reach of egalitarian justice still have some places to go, to avoid the force of my arguments. They can deny my premises; or deny that my conclusion bears on any kind of global egalitarianism they care to deny. Fully foreclosing these possibilities would require more work than I’ve been able to do here. Still, it
should be clear that my arguments succeed, at least, at putting a significant burden on those
who would affirm an egalitarian conception of domestic justice, but deny the force of egalitarian
norms globally; they need to provide, what is not yet in evidence, some satisfying explanation
for egalitarianism at the domestic level that does not extend to the global. In the absence of this
kind of account, those who are sympathetic to a social contract egalitarianism about social
justice ought to be sympathetic to global egalitarianism, as well.
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