

## INTRODUCTION

### 1. PROBLEMS OF JUSTICE

In his Gettysburg Address, Lincoln said that this country was conceived in liberty and dedicated to the proposition that all men are created equal. Surveying the surrounding carnage, Lincoln knew at first hand the profound disagreement about the substance of that conception and that dedication. Now, 140 years later, deep controversy persists about what it means for a society—ours, or any other—to treat its members as free and equal, and whether such treatment is really possible.

Consider two examples:

1. In the United States now, the richest 1 percent of the population take home as many after-tax dollars as the bottom 40 percent. Indeed, economic inequality is as great in the country now as it has been at any time in the past 50 years. Some people think that such inequality is the natural consequence of the basic individual rights. Given differences in family background, skill, personal ambitions, and sheer good fortune, some people will fare better, perhaps much better, than others; preventing those inequalities, they say, requires overriding choices people have a right to make, and substituting your judgment for theirs. You may not like the choices, and may feel disquiet at the results, but it is not permissible to use collective power to override their choices. Once you accept the idea that people are free and equal, they say, you must accept these consequences.

Critics object that vast inequalities typically reflect a system of illegitimate rewards for people who happen to have been born rich, or endowed with some scarce, high priced skill. An economic system, they say, should not be a talent contest designed to reward the gifted, or a race designed to reward the swift, but a fair scheme designed to ensure a reasonable life for all. Regulations of economic choices designed to ensure equality of opportunity and fairness of reward are amply justified.

2. In the United States today, 19 states have anti-sodomy laws on the books, and 5 states have laws that target only same-sex acts. One state's criminal code says: "Whoever commits the abominable and detestable crime against nature, either with mankind or with a beast, shall be punished by imprisonment in the state prison for not more than twenty years."<sup>i</sup> Some people find such legal regulation unobjectionable. They think that the majority in a state has the right to punish conduct it believes to be morally wrong. Defenders of the laws that enforce the majority's sexual code might say that all of us are equals and should therefore have an equal say about the common moral environment we inhabit: that the right of the majority to enforce its morality follows from the equality that defines a democracy.

Critics of these anti-sodomy laws see them as profoundly unjust, as violating the entitlement of equal individuals to conduct their intimate affairs freely, according to their own standards and inclinations, without public scrutiny, or threat of humiliation and punishment.

Here we have two familiar public controversies: about economic justice and the enforcement of sexual morality. Debates about these issues—like debates about affirmative action and racial equality, or how to fund our schools and finance our elections so that we have equal opportunities for rich and poor, or about taxation or abortion or whether cultural or religious minorities are entitled to special rights and exemptions—are surrounded by a particular intensity. That's because they are not technocratic disputes, about the most effective way to solve a social problem. They are not about means; they are about ends; they are not about policy, they are about principle. They involve disagreements about the kind of treatment that people can rightly expect from and demand of one another, disagreements about the basic rights we have, and about what we owe to one another—disagreements about what it takes to be treated with respect, and about what kind of treatment constitutes an unacceptable insult to our dignity.

Really, they are disagreements about justice. Let's say that *justice* is a matter of ensuring to each person what he or she is entitled to, and refraining from taking what is rightfully his/hers. These debates, then, are not about what efficiency requires, but about what justice demands—about the kind of treatment that we are entitled to expect of—indeed demand from—one another. More particularly, they involve disagreements about the sorts of *liberty* can we rightfully demand of our society, the kinds of *equality* can we rightfully expect, and whether a society can ensure *both liberty and equality*—about what it means for a society to be both conceived in liberty and dedicated to the proposition that we all are created equal.

## 2. PHILOSOPHICAL THEORIES OF JUSTICE

In political philosophy, we hope to make some headway in addressing these questions of justice: to figure out the right answers—or at least to clarify the sources of our disagreement and perhaps reduce its extent. The hope is to draw real practical guidance in addressing disputed issues of justice from the reflective exercise of our common reason. We may not find a definite solution to the problem: political philosophy will not tell us how to design a tax system or whether schools should have equal resources. But it may help to understand the basic principles that an acceptable solution should satisfy.

This hope defines a tradition of political philosophy that extends back to Plato's *Republic*. But some people have a *reductionist* view of political disagreement, and they treat that hope as an object of mockery. Disagreements about justice, they say, are disguised conflicts of attitude and interest; while participants pretend to argue about what justice requires, they are really angling for advantage and using high-minded rhetoric to maneuver others into going along. If you have enough power—and a willingness to use it—they say, your tastes and interests will win: justice will mean doing what you want. In the *Republic*, Socrates' opponent Thrasymachus said that justice is the advantage of the stronger—that justice is not an aspiration beyond the naked struggle for power, but is instead simply another move in that struggle.

This cynical view certainly resonates with much political argument. But we should be cautious about embracing it as the whole truth. And the basis of that caution lies not in philosophy, but in ordinary life. Notice that the reductionist perspective doesn't fit with how political disagreement seems to us when we are

engaged in it as active participants rather than standing back as amused spectators. In political argument—and not only in philosophy—we debate about whether it is just to regulate sexual morality, for example, or whether vast differences in the quality of schools are fair. And we argue as if these questions had answers, and as though we might find our way to those answers through reasoned argument. When we are inside the debate, pressed hard to defend a view and to criticize alternatives, we don't *simply* take the cynical view of a passive spectator—by exposing the attitudes of our opponents, or by defending our side in the argument by calling attention to our own underlying tastes and interests. And no one ever says with a straight face: I am right *because* I am more powerful, that my might makes me right. We point to principles that support our side of the argument, and that other people might reasonably be expected to endorse—for example, the principle that people should not be punished for conduct that imposes no harm on others. We analogies with kindred cases: if we are going to punish people for “unnatural sex acts,” why not punish people for dressing unconventionally, with unnatural color combinations, or for not wearing socks in a snow storm? And we try to show that the principles underlying the alternative position have unacceptable implications. In short, we don't simply flip attitude and angle for advantage. Instead, at least part of the time, we offer reasons.

And that effort at reasoning plays an especially important role in a democracy. In a democracy, political power is the collective power of citizens—of the people, who must ultimately authorize the exercise of that power. Because political power belongs to all of us, we owe one another—as equal members of

the sovereign people—appropriate reasons for the exercise of that power. We don't always argue that way, but that is the democratic promise: to show respect for other members of the sovereign people by debating justice on a footing of common reason.

When public reasoning about the proper exercise of collective power becomes more sustained, systematic, and reflective, then we have political philosophy. So political philosophy is continuous with public reasoning in a democracy, not a fundamentally different enterprise: it is argument about the requirements of justice, of a kind that plays a role in democratic life, but conducted in a more systematic and reflective way. And it is based on a provisional commitment to the idea that ordinary political arguments really are what they appear to be when we are in the middle of them: namely, arguments about what we owe to each other, about the most reasonable way to live together, not simply power struggles masquerading as something elevated. Faced with disagreements about what justice demands of us—about whether we can impose our sexual morality on others, and whether large inequalities of fortune are acceptable—political philosophy builds on the hope, suggested in ordinary political argument, that we can find resources in reason to resolve or reduce those disagreements.

### 3. THREE THEORIES

More particularly, political philosophy moves back and forth between specific issues of controversy—about enforcing sexual morality, or affirmative action, or taxation—and more general and abstract theories of justice. What I mean by a

“theory of justice” is, in the first instance, a set of basic ideals and principles of justice that are offered as guides to public judgment in addressing issues about liberty and equality, and about the prospects for reconciling those fundamental values: such theories articulate the reasons we owe to one another for the exercise of our collective power.

Three theories of justice play a particular important role in current political philosophy—and public political argument—and they will provide our focus in this course: utilitarianism, libertarianism, and egalitarian liberalism. I won’t try to explain them now: that will happen over the course of the term. Suffice to say that we will focus on the way that those theories articulate and balance values of freedom and equality; and we will consider the implications of those theories for some issues of current public controversy: including the enforcement of morality, economic justice, affirmative action and racial equality, equal opportunity and school financing, the funding of elections, gender equality, and abortion.

#### 4. OBJECTIVITY

Pursuing this topic depends, as I have said, on the conviction that reasoned argument in this area is possible. Is this conviction sensible? Shouldn’t we first assess the competence of reason? Argument over questions of justice can disintegrate right at the start because people wonder whether those questions have an objectively correct answer, and whether the exercise of reflective reason will guide us to that answer. If they may not, why bother getting started? Don’t we need to know, in advance, whether reason deliver on its promise, or simply disappoint?

Though I can't hope to address these large questions about objectivity and reason here, I want to make a few remarks about them, only to remove the obstacles they might put in our way.

Let's assume, then, that the main aim of political philosophy is practical: part of the public culture in a democracy, it contributes to the formation of more reasonable political conceptions and more reasonable political engagement, and in this way helps to advance what I earlier described as democracy's promise: to show respect for other members of the sovereign people by debating justice on a footing of principle.

More particularly, we all begin with some views about justice, an outlook about issues of liberty and equality, and about the more particular questions noted earlier—about economic justice, or the regulation of sexual morality. But we know that our own views have some shortcomings: they are inchoate and often unreflective: most of us have never given sustained consideration to alternative views. Moreover, we take an interest in having views about justice that meet certain minimal standards of reasonableness: views that are, for example, more consistent, complete, and reflective. If we arrive at views that meet these desiderata, we achieve what John Rawls has called "reflective equilibrium." Our views are in equilibrium, because we see no reason to alter them; the equilibrium is reflective, because it is not simply a product of dogmatism, but of a serious examination of objections, difficulties, and alternatives.

I assume, then, that we all have views about justice, and prefer those views to be more reasonable. Why? Partly for reasons of personal integrity. But



also for reasons that go to the core of political responsibility in a democracy. We owe it to others—as equal members of the sovereign people—to argue with them about politics on the basis of values and principles that we think can withstand reasonable scrutiny.

Assuming an interest in arriving at reflective equilibrium, then, we have an opening wedge for addressing questions of justice. If we aim to develop more reasonable views than those we now have, then we needn't decide at the outset whether there is a single objectively correct position to which all reasonable people will converge. Even if reasonable people will always disagree on issues of justice, some views may be more reasonable than others, and we may now be on the low end of reasonableness. And that observation suffices for getting down to business: the business of pursuing, in a more systematic and reflective way, the reasonable arguments about the demands of justice that members of a democratic society owe to one another.