Part 1

What Is Justice?
Chapter 1.0

THE NEIGHBORHOOD OF JUSTICE

THESIS: Theorists disagree. It is not their fault. Theorizing does not lead to consensus.

I. PRELIMINARY SURVEY

When I survey the terrain of justice, here is what I see. What we call justice is a constellation of somewhat related elements. I see a degree of integration and unity, but the integrity of justice is limited, more like the integrity of a neighborhood than of a building. A good neighborhood is functional, a place where people can live well. Yet, good neighborhoods are not designed in the comprehensive way that good houses are. (Indeed, designed communities feel fake, like movie sets, with histories too obviously tracing back to the dated plan of a single mind.)

Is there a defining property of the neighborhood of justice, in virtue of which the word applies? Yes, Part 1 explains, but the property is general and formal; how it translates into more substantive principles depends on context. Parts 2-5 reflect on four substantive elements: desert, reciprocity, equality, need. Part 6 pays homage to John Rawls and Robert Nozick, who “arguably framed the landscape of academic political philosophy in the last decades of the twentieth century.” My theorizing is inspired by (although perhaps only vaguely resembles) theirs.

II. THEORIZING

If justice is a neighborhood, then a theory of justice is a map of that neighborhood. The best theory will be incomplete, like a map whose author declines to speculate about unexplored
avenues, knowing there is a truth of the matter yet leaving those parts of the map blank. A theory evolves toward representing the neighborhood more completely, in the hands of future residents who have more information and different purposes, even as the neighborhood itself changes.

I have become a pluralist, but there are many pluralisms. I focus not on concentric “spheres” of local, national, and international justice nor on how different cultures foster different intuitions, but on the variety of contexts we experience every day, calling in turn for principles of desert, reciprocity, equality, and need. I try to some extent to knit these four elements together, showing how they make room for each other and define each other’s limits, but not at a cost of twisting them to make them appear to fit together better than they really do. Would a more elegant theory reduce the multiplicity of elements to one? Would a monist theory be more useful? Would it even be simpler? The periodic table would in one sense be simpler if we posited only four elements—or one, for that matter—but would that make for better science? No. Astronomers once said planets must have circular orbits. When they finally accepted the reality of elliptical orbits, which have two focal points, their theories became simpler, more elegant, and more powerful. So, simplicity is a theoretical virtue, but when a phenomenon looks complex—when an orbit seems to have two foci, not one—the simplest explanation may be that it looks complex because it is. We may find a way of doing everything with a single element, but it would be mere dogma—the opposite of science—to assume we must.

III. ONLY THAT WHICH HAS NO HISTORY IS DEFINABLE

Socrates famously wanted definitions, not merely an example or two, but in practice the way we actually learn is by example. Thus, I wonder: Does philosophical training lead us to exaggerate the importance of definitions? We do not need to know how to define ‘dog’ to know
what a dog is. Why would justice be different?13

The project of analyzing ‘dog’ has not captured philosophical imaginations as analyzing justice has. But suppose only one of us will get tenure, and somehow the verdict turns on whether we classify jackals as dogs. The meaning of ‘dog’ suddenly becomes controversial. Those who fail to see it our way start to look unreasonable. Two lessons: First, we define and refine a concept’s edges only when the need arises. Second, the needs spurring us to define the edges of justice tend to be conflicting. So, emotions tend to run high, exacerbated by the fact that rules of justice tell us not only what to expect from each other, but what to count as an affront. If injustice is an affront, not merely a disappointment, then theorizing about injustice will be hard. Strangely, if Joe’s theory fails to condemn things we consider an affront, that in itself is a bit of an affront.

IV. Disagreement

Reasonable people disagree about what is just. Why? This itself is an item over which reasonable people disagree. Our analyses of justice (like our analyses of knowledge, free will, meaning, etc.) all have counterexamples. We have looked so hard for so long. Why have we not found what we are looking for?

In part, the problem lies in the nature of theorizing itself. A truism in philosophy of science: for any set of data, an infinite number of theories will fit the facts. So, even if we agree on particular cases, we still, in all likelihood, disagree on how to pull those judgments together to form a theory. Theorizing per se does not produce consensus (although social pressure does).

Why not? Either an argument is sound, or not. So why isn’t a theory compelling to all of us, if sound, or none of us, if not? My answer: theories are not arguments, sound or otherwise.
They are maps. Maps, even good maps, are not compelling. No map represents the *only* reasonable way of seeing the terrain. (Or at least, this is how I see it.)

We would be astounded if two cartography students separately assigned to map the same terrain came up with identical maps. We would doubt they were working independently. Theorists working independently likewise construct different theories. Not seeing how the terrain underdetermines the choices they make about how to map it, they assume their theory cannot be true unless rival theories are false, and seek to identify ways in which rival theories distort the terrain. Naturally, they find some, and such demonstration seems decisive to them, but not to rivals, who barely pay attention, preoccupied as they are with demonstrations of their own.

Although we disagree over theoretical matters, there is less discord over how we should treat each other day to day. I may believe, at least theoretically, that justice requires us to tear down existing institutions and rebuild society according to a grand vision. You may feel the same, except your grand vision is nothing like mine. Yet, when we leave the office, we deal with the world as it is. I find my car in the parking lot. You find yours. We drive off without incident. If we are to live in peace, we need a high level of consensus on a long and mostly inarticulate list of “dos” and “don’ts” that constitute the ordinary sense of injustice with which we navigate in our social world. The consensus we need to achieve concerns *how* (not why) to treat each other, and we need to achieve consensus where we do achieve it: in practice.

In effect, there are two ways to agree: we agree on what is correct, or on who has jurisdiction—who gets to decide. Freedom of religion took the latter form; we learned to be liberals in matters of religion, reaching consensus not on what to believe but on who gets to decide. So too with freedom of speech. Isn’t it odd that our greatest successes in learning how to live together stem not from agreeing on what is correct but from agreeing to let people decide for themselves?
Chapter 1.1

THE BASIC CONCEPT

THESIS: Justice concerns what people are due. This much is uncontested, simply a matter of how we normally use the word. Exactly what people are due, though, cannot be settled entirely by conceptual analysis.

I. WHAT WE KNOW ABOUT THE BASIC CONCEPT

What is justice? It is a philosopher’s question, and a philosopher might start by noting that when we ask what is justice, the term ‘justice’ is not a meaningless sound. We argue about justice, yet the very fact that we argue presupposes a level of mutual understanding. Because we share a language, we know we are not arguing about what is an eggplant, or what is the weather forecast, or what is the capital of Argentina. When we argue about justice, there may be much we do not know, but we know that justice has something to do with treating like cases alike.

We also know that treating like cases alike is not the whole of justice. Suppose a medieval king decrees that persons convicted of shoplifting shall have their left hand amputated. We protest. Such punishment is unjust! The king replies, “I don’t play favorites. I treat like cases alike, so what’s the problem?” Even if the king is telling the truth, this does not settle the matter. Amputating every thief’s left hand is treating all alike, but even-handedness (so to speak) is not enough. Impartiality is not enough. The idea of treating like cases alike is relevant, but there is more to justice than this.

Compare this to a second case. The king now decrees: those found innocent of shoplifting
shall have their left hand amputated. Again, we protest. Again, the king replies, “I treat like cases alike, so what’s the problem?” What do we say now? In the first case, the king’s conception of justice was barbaric. In the second, the king does not have a conception—not even a barbaric one. We know this because, if the king softens his stance and says from now on the innocent will merely be fined, not maimed, the punishment is no longer barbaric, but that does not fix the problem. The problem is, the king fails to grasp the concept. To argue about justice is to argue about what people are due. Simply grasping the meanings of words tells us that punishment, even mild punishment, is not what innocent people are due.

While treating like cases alike does not rule out even-handedly punishing the innocent, giving people their due does. When we ask “what is justice?” we make a decent start when we say, “Whatever else we may debate, justice is about what people are due.” There is a limit to how far we can get by analyzing language, but we can get (and we just did get) somewhere.

We also know we can distinguish the basic concept from particular conceptions of what people are due. Thus, to John Rawls,

it seems natural to think of the concept of justice as distinct from the various conceptions of justice and as being specified by the role which these different sets of principles, these different conceptions, have in common. Those who hold different conceptions of justice can, then, still agree that institutions are just when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life. For present purposes, we do not need this much baggage. We need not take a stand on whether arbitrariness is always bad. (When we assign the right to vote in a given election, we
arbitrarily distinguish between citizens celebrating their eighteenth birthday and citizens who are one day younger.) We also can leave open whether “competing claims to advantages of social life” are what need balancing. The basic concept is this: normal conversation about doing justice to X is conversation about giving X its due. This shared concept is what enables us to propose different conceptions, then argue about their relative merits.

The idea that we can disagree about what justice requires presupposes that we agree that justice does, after all, require.

II. WHAT THE BASIC CONCEPT LEAVES OPEN

We know something about justice, then. The basic concept is not empty, since only so many things can count as a person’s due. As noted, punishment cannot be an innocent person’s due. Yet, if the concept is not empty, neither is it substantial enough to answer every question. For example, if Joe works harder than Jane, should Joe be paid more? What if Jane needs the money more than Joe does? Should Jane be paid more? The basic concept does not say. We cannot specify Jane’s due simply by defining the term ‘due.’ How do we know when facts about how hard Joe works matter more than facts about how badly Jane needs the money?

Suppose, for argument’s sake, that if Jane and Joe are equal in relevant respects, their employer ought to pay them equally. Now change the case slightly: Jane and Joe remain equal but have different employers. Must Joe’s employer pay the same as Jane’s? If Jane earns twenty thousand as a cook while Joe, a comparably good cook, earns thirty thousand at the restaurant next door, is that unjust? Do issues of justice arise when Jane and Joe are paid differently by the same employer, but not when their salaries are set independently by different employers? Why?
III. SEEKING A REFEREE

These questions suggest a problem. So long as rival conceptions are minimally credible (e.g., so long as they do not endorse punishing the innocent), the basic concept will not have enough content to settle which is best. Neither can we settle anything by appealing to one of the rivals. Put it this way: if opposing players are disputing a rule, we cannot settle the dispute by consulting a player. We need a referee. We need to go beyond the kind of weight players have. We need a different kind of authority.

For example, we can choose a conception according to what sort of life that conception (institutionalizing, endorsing, acting on it) would help us lead. This idea is not a conception of justice, and does not presuppose one, which means we can appeal to it without prejudice. It can be a referee precisely because, on the field of justice, it is not one of the players.

The idea of being able to live well lacks the kind of gravity we associate with principles of justice. But since the idea is not a principle of justice, this is as it should be. After all, it is the players who inspire us, not the referees.

IV. AMBIGUITY

We can flesh out the idea of living well in different, not necessarily compatible ways. Is the idea to meet basic needs, promote welfare in general, provide better opportunities, or foster excellence? In practice, and in the long run, such ends may all be promoted by the same policies. Even when the various standards are incompatible, though, they still matter. Asking whether a
policy fosters excellence is not a mistake. Asking whether a policy empowers the least advantaged is not a mistake. Admitting that various things matter without always pointing in the same direction is not a mistake. If relevant standards sometimes point in different directions, that is life. Complexity and ambiguity are not theoretical artifacts.

V. Justice: What Is It For?

Granting that the idea of living well is complex and ambiguous, the role justice plays in enabling us to live well may yet be (relatively!) simple and well-defined. Suppose we do not see justice as a panacea; that is, suppose we accept that everyone getting their due does not guarantee that everyone is living well. Justice gives us something, not everything. What more specifically, then, is the point of justice? Here is a suggestion.

A negative externality, sometimes called a spillover cost, is the part of an action’s cost that impacts bystanders. Economists talk of internalizing externalities: that is, minimizing the extent to which innocent people are forced to bear the costs of other people’s choices. If embracing a certain principle resolves a conflict, this is not enough to show that the principle is a principle of justice. However, if practicing a principle leads us to take responsibility for the consequences of our actions, then not only is it apt for resolving conflict; it also functions like a principle of justice, for it requires paying some attention to what people around us are due. Henry Shue says, “If whoever makes a mess receives the benefits and does not pay the costs, not only does he have no incentive to avoid making as many messes as he likes, but he is also unfair to whoever does pay the costs.” Externalities undermine harmony among parts of a polis, as per Plato. Our neighbors do not want to put up with drunk drivers, for example, and should not have
To be just is to avoid, as best we can, leaving our neighbors to pay for our negligent choices.

I am not proposing an imperative to internalize externalities as a conception of, or even a principle of, justice. Instead, I am saying our reasons for wanting to limit the proliferation of negative externalities do not rest on any particular view of justice. Such reasons do not derive from a conception of justice but instead support any conception that leads people to internalize. Any theory of justice that would lead us away from internalizing negative externalities has an uphill climb toward plausibility. Internalizing negative externalities is only one aspect of what we need so as to live well, but it may be justice’s characteristic way of helping us to live well. Justice is a framework for decreasing the cost of living together; the framework’s larger point is to free us to focus less on self-defense and more on mutual advantage, and on opportunities to make the world a better place: that is, to generate positive rather than negative externalities.

This may not be the essence of justice. However, if what we call justice serves that purpose, then we have reason to respect what we call justice, and to be glad we have as much of it as we do.

If justice is itself foundational, it may have no deeper foundation. In that case, we can ask what justice is a foundation for. We can evaluate the soundness of a house’s foundation without presuming there is something more foundational than the foundation. We ask what kind of life the house’s occupants will be able to live, while realizing that foundations are not everything.

Later parts of this book do not rely overtly on this way of testing competing conceptions. This is partly because I wrote later parts first, partly because the test is nonstandard and accordingly controversial, and partly because my first aim is analytical: to assess how well the principles fare as conceptions of what people are due. When conceptual analysis is inconclusive, though, I step back to consider the point of seeing one thing rather than another as a person’s due. In other words, if and when we cannot answer “what is justice?” head on, we can try an indirect
approach, asking, “what kind of life goes with conceiving of justice in this way rather than that?”

We should keep in mind that the basic concept of justice often is determinate enough that we can see what is just without needing to appeal to other goals and values. For example, we know it is unjust deliberately to punish an innocent person. It is analytic that punishment is not what the innocent are due. We do not appeal to consequences to decide that. The only time we appeal to considerations external to the basic concept, such as consequences, is when the basic concept is not enough to sort out rival conceptions. That is all.
Chapter 1.2

A Variety of Contestants

Thesis: Justice has several elements. No simple principle is right for every context.

I. Accounting for the Appearance of Pluralism

In a case of child neglect, we plausibly could say justice requires parents to tend to the child’s needs. By contrast, if a century ago we had wondered whether women should be allowed to vote, it would have been beside the point to wonder whether women need to vote, because in that context what women were due was acknowledgement—not of their needs but of their equality as citizens. Talking as if justice is about meeting women’s needs would have been to treat women as children. One way to account for such facts is to say different contexts call for different principles. Justice is about giving people their due; if we are not discussing what people are due, then we are not discussing justice. Yet, what people are due varies.

II. A Multiplicity of Principles

Theories of justice typically are assembled from one or more of the following four elements. Principles of equality say people should be treated equally—providing equal opportunity, ensuring equal pay for equal work, and so on—or that people should have equal shares of whatever is being distributed.

Principles of desert say people ought to get what they deserve. People should be rewarded in proportion to how hard they work, or how much risk they bear in undertaking a given line of work, or how well they satisfy their customers. In a nutshell, principles of equality
focus on what we have in common; principles of desert focus on how we distinguish ourselves.

Principles of *reciprocity* say that when Joe does me a favor, he puts me in debt. I now owe Joe a favor, not in virtue of what kind of person Joe is but in virtue of what kind of history we share. Again in a nutshell, where a principle of desert might focus on the character of a person, principles of reciprocity focus on the character of a relationship.

Finally, principles of *need* define a class of needs, then say a society is just only if such needs are met, so far as meeting them is humanly possible.

III. PUZZLES

1. Almost everyone thinks justice has to do with equality. But equality along one dimension entails inequality along others. Whenever a politician proposes a tax cut, editorials appear saying 90% of the tax cut’s benefit would go to the rich. The editorials never explain how this could be so.

   Here, for the record, is how it works. Suppose Jane Poor earns $10,000 and (to keep it simple) pays 10%, while Joe Rich earns $100,000 and pays 38%. Together they pay $39,000, 95% of which is paid by Joe Rich. If we cut both rates by one percent, Jane saves $100, while Joe saves $1000, which is to say, Joe gets about 90% of the benefit. So, the pundits are right, although they never mention that Joe still pays $37,000, compared to Jane’s $900, and of the $37,900 that Joe and Jane now are paying between them, Joe is still paying over 95% of that total. So, should inequality be reduced? *Which* inequality? The 40-fold difference in what Jane and Joe pay, or the 7-fold difference in what they have left after paying? How much inequality along one dimension can we tolerate for the sake of equality along another?

   Another puzzle comes from Rawls. Suppose, when people can profit from developing
their unequal talents, everyone does better than they do under systems that flatten inequalities, flattening incentives in the process. In that case, prizing equality per se would seem irrational.

2. We think people ought to get what they deserve, but why think anyone deserves anything? We think we deserve credit for the excellence of our work, but not for what is mere luck. The puzzle, as Rawls notes: our ability to work is itself mere luck; our social circumstances, our talents, and even our character are products of nature and nurture for which we can claim no credit. Therefore, there is nothing for which credit is due, and the idea of desert is a mirage. True?

3. Most of us think justice has something to do with reciprocity. People who help us put us in their debt. Yet it is unclear when returning favors is a matter of justice. As Robert Nozick observes, people cannot put us in debt merely by conferring favors on us that we did not request and may not want. Not only are there cases where justice does not require reciprocity; sometimes justice does not permit reciprocity. Karsten gave me my first academic job. Now, let us imagine, years later, Karsten applying for a job in my department. I know how to return the favor, but do I have a duty or even a right to take that into account when deciding how to vote?

4. Most of us think justice has to do with need. Indeed, that justice has to do with need is part of the reason why justice matters as it does. Ordinarily, though, we see what people are due and what people need as different things. It is too simple to suppose X is Jane’s due simply because Jane needs X. That is the wrong kind of connection. So, what other connection is there?

   A more disturbing puzzle has to do with the fact that when we distribute according to X, we in effect reward people for supplying units of X. When we distribute according to X, we tend to get more X. This is a nice consequence when we distribute according to desert. What if the same were true of need: what if, when we distribute according to need, we tend to get more
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need? Obviously this is not merely a theoretical worry. Within your family, you want to make sure your children get what they need, but you do not want your children to think that the way for them to get your attention is to be needy. That would be a recipe for badly raised children.

What if we look outside the confines of the family? Suppose you visit Thailand. You want to give to children begging on the street, but your guide says the children were kidnapped from Cambodia and brought to Bangkok to beg. Every evening their captor feeds them if they’ve collected enough money, and cuts off a finger if they have not. (The threat of torture makes the children desperate, amputations make them look more pathetic, and it’s all good for business.) It is as plain as a moral fact can be that those children desperately need your spare change. Yet if your guide is right, then if you distribute your money on the basis of need, you are financing an industry that manufactures need. So, there you are, needing to decide whether to give money to the child in front of you. What does justice have to do with need in that case? Why?

Later chapters revisit these puzzles, but offer no easy answers. I try to advance the conversation, not end it. I try to show why, despite puzzles, we are rightly reluctant to discard any of our basic categories: desert, reciprocity, equality, need.
Chapter 1.3

CONTEXTUAL FUNCTIONALISM

Thesis: The realms of justice, governed by different principles, are distinct, but sometimes clash.

I. A Pluralist Theory

I am wary of labels, but we can describe my theory as contextual functionalism. The theory is pluralist insofar as none of its four primary elements is an overarching standard to which the others reduce. The theory is contextual insofar as respective elements rule only over limited ranges. Ranges are topics that are mutually exclusive more or less, jointly spanning the subject of justice more or less. Ranges are like tectonic plates insofar as their edges shift as our conception evolves. (Civil rights movements aim to extend the range of equality before the law.) The shifting can leave gaps in some places, and overlaps elsewhere. Thus, range-bound elements may leave some questions unanswered, and answer some questions in clashing ways. Moreover, places where principles clash are chaotic, insofar as “butterfly” effects—variations in detail—lead to different conclusions. So, is it unjust for me to hire my cousin? The details matter.

The theory is functionalist in saying we can try to resolve uncertainty over what to believe by asking what justice is for. There are considerations beyond justice. Some of them matter, regardless of whether they matter within the arena of justice. When considerations internal to the concept (e.g., analyzing the word ‘due’) do not settle which rival conception we should believe, we can ask what matters outside the arena, without prejudice to ideas that matter within. There is no assumption that what is outside the arena is more foundational than what is
inside. The point is only that when we exhaust everything that matters inside the arena, without settling which conception of justice to regard as the real thing, we need not give up.

II. A CONTEXTUAL THEORY, CRUDELY STATED

Different principles apply in different contexts. A context is a question that motivates us to theorize. “What are my children due?” is one context. “What are my employees due (from me)?” is another. As we come to a map with a destination, so we come to a theory with a question, hoping for guidance. It is the topic of our pretheoretical question (children, employees, animals, etc.), not the theory per se, that specifies our theoretical context. In that sense, contexts are not theory-laden. So, here is a map of the neighborhood of justice. The topics are crude, specifying correspondingly crude contexts. We discuss refinements in a moment.

1. What are children due? They are due what they need.
2. What are citizens due? They are due equal treatment, i.e., equality before the law.
3. What are partners due? They are due reciprocity.
4. What are contestants due? They are due fair acknowledgement of demonstrated merit.
5. What are employees due? They are due what they have earned.
6. Families at the twentieth income percentile correspond roughly to the class Rawls called “least advantaged.” What are they due? As Rawls might have said, they are due maximum freedom compatible with similar freedom for all. They are due a chance to live in a society whose rising tide of prosperity does not leave whole classes behind. Their children deserve a chance to grow up in an open society, where humble origins are no great barrier to developing their full
potential. Everyone deserves a chance, at least in a cosmic sense.¹⁵

III. HOW TO REFINE A CONTEXT: A CASE STUDY

In a pluralistic theory, the idea that people are due (e. g.) equal shares in one context is compatible with people being due something else in another context. Thus, the standard way of arguing by counterexample—constructing cases where equal shares would be monstrous—does not refute equal shares within a pluralistic theory. Instead, it does something more constructive: it shows us when a principle like equal shares does not apply. It identifies limits.

Consider the first context listed above: questions about what children are due. A person of wisdom sees this as a crudely drawn context, so when she says, “Children are due what they need,” she will not mean to be stating a universal law. She knows a full context is a nuanced thing, and any verbal description will be merely partial. So, she offers a general rule covering what she imagines to be a standard case. She realizes there will be counterexamples whose details go beyond what she meant to cover with her crude generalization. (Think of instruction manuals you have used while assembling a new piece of furniture. The task is simple, and you sincerely wish to understand the instructions, yet you still make mistakes. Is it any wonder that instructions for something vastly more complex—how to conceive of justice—could go astray in the hands of experts trained to strive for cleverly perverse interpretation?) So, asked what children are due, Jane says they are due what they need. Joe cleverly replies, “What if my child is a grownup?” Jane hears Joe’s counterexample not as refuting her answer, but as refining the original question. A true refutation shows that Jane’s generalization is not true even in general.

This is what analytic philosophy is. If we could get past “philosophy to win,” analytic
philosophy would be a process of formulating generalizations for contexts that admit of further refinement. (I am, of course, generalizing.) We begin with something crude, something that would not be a good place to stop but that may be a good start. We can try to tear the proposal down, thoughtlessly, as a vandal would, or probe it with a view to discovering what might be built on it. Suppose Jane treats Joe’s question as refining the original question. She answers in a fittingly refined way, saying: When I said parents ought to meet their children’s needs—such is a child’s due—I was imagining someone roughly six years old. You are asking about a context to which that answer does not apply. Here is my answer to your new question. Your adult children are also fellow citizens. Or if your adult child is also a business partner, or an employee, those refinements lead to different refinements of my answer. (People are more than one thing.)

Why would a young child’s due differ from an adult child’s due? Here is one answer. Sometimes, what your children need most is to be recognized and rewarded for meritorious performance. Or they might need you to establish and acknowledge a reciprocal relationship, such as when you pay them to mow the lawn. More generally, what your children eventually need is for you to start treating them like adults rather than like children.\textsuperscript{16} Part of treating them like adults is treating them as having adult responsibilities. Treating them as having adult responsibilities involves, in part, acknowledging sharp limits to your obligation to meet their adult needs. It is part of the art of decent parenting: cutting children loose as they become able to handle the responsibility. There comes a point when distributing according to need is no longer what your children need. Your relationship to them is one context to which principles of justice apply, but context is not static. As children mature, the context evolves, gradually becoming a context to which different principles apply.
Chapter 1.4

WHAT IS THEORY?

THESIS: Successful theories are maps, not attempts to specify necessary and sufficient conditions.

I. THEORIES ARE MAPS

Let us explore the idea that one way to see what a theory is, and what a theory can do, is to see a theory as like a map.¹⁷ We begin with a terrain (a subject matter), and with questions about that terrain. Our questions spur us to build theories—maps of the terrain—that articulate and systematize our answers. To know how to reach Detroit, we need one kind of map. To know how to be a good person, we need another map. Note: maps do not tell us where we want to go.¹⁸ Our questions predate our theorizing, and constitute our reasons to theorize in the first place.

a) Theories Are Abstractions

A map of Detroit is an artifact, an invention. So is a map of justice. In neither case does the terrain being mapped really look like that. A map of Detroit is stylized, abstract, simplified. It otherwise would fail as a map. Yet a map can be accurate in the sense that it does not mislead. A given map will for some purposes have ample detail; for other purposes it will be oversimplified.

A map is not itself the reality. It is at best a serviceable representation. Moral theories likewise are more or less serviceable representations of a terrain. They cannot be more than that.

b) Fine Detail Is a Means to an End

When we construct a map, we leave out details that would merely confuse users. Fine detail is not an end in itself. We do not try to show current locations of every stalled car on the
side of the road, and we do not call a map false when it omits such details. The question is whether users honestly wanting to follow directions would be led astray.

c) **Comprehensive Scope Is a Means to an End**

Existing theories tend to be like maps of the globe: a result of striving for comprehensive scope—for a principle or set of principles that covers everything. Real moral questions, though, often are more like questions about getting to campus from the airport. A map of the globe is impressive, but when we want to get to campus, the globe does not help. It is not even relevant.

Local maps do not say how to reach all destinations. Yet, though noncomprehensive, they almost always are what we want when we want a map. Why? Because they provide the detail we need for solving problems we actually have. The distant perspective from which we view the whole globe of morality is a perspective from which the surface looks smooth. Principles we stretch to cover the globe fail to make contact with the valleys of moral life. They do not help people on the ground to make moral decisions.

d) **Theories Have Counterexamples**

Typically, a counterexample’s point is to show that a theory is not algorithmic: we could follow the letter of a theory and still arrive at the wrong destination. But we can consider it a folk theorem of analytic philosophy: *any* theory simple enough to be useful has counterexamples. (This is a simple theory. Therefore, if correct, it has counterexamples.)

Counterexamples are warning signs, telling us that theories should not be trusted blindly, any more than a map should be trusted blindly in the face of road signs warning that the bridge ahead is washed out. Even simple travel instructions require interpretation, judgment, and experience. (Carbury said the turn was “about a mile.” Have we gone too far? Is that the gas station he told us to watch for?) There is virtually no such thing as simply following instructions.
e) Theories Say What To Do In Context C, Not That We Are In Context C

Like it or not, we apply theories, not merely follow them. Put it this way: when we formulate *rules*, we try to formulate instructions that agents can follow, but when we formulate *principles* rather than rules, we are not even trying to formulate instructions that agents can simply follow. (There is comfort in the idea of following. It seems to relieve us of responsibility, whereas *applying* a theory requires good faith, wisdom, and experience, and leaves little room for doubt about who is choosing and who is responsible for the consequences.) Those who want principles of justice to be “idiot-proof” have the wrong idea about what a theory can do.

If your destination is the campus, a city map may tell you to turn left at 1\textsuperscript{st} and Broadway, but by itself an ordinary map cannot tell you what to do right now unless you already know from experience and observation that you are at the corner of 1\textsuperscript{st} and Broadway. An ordinary road map does not come with a red X saying, “You are here.” Ordinary maps depend on a user to know where he or she is, and where he or she wants to go.

Theories are like ordinary maps in that respect. Even if a theory says unequivocally that principle P applies in context C, we still need to decide whether our current situation is enough like C to make P applicable. Unequivocal though principle P may be, we still need wisdom and experience to judge that the time for principle P has come.\textsuperscript{19}

f) Different Destinations Call For Different Maps

Our purposes change. We seek answers to new questions, calling for a new map. A map of the city is for one purpose; a map of the solar system is for another. Likewise, a theory that maps a public official’s duties may be quite different from a theory that maps a parent’s duties.

Note: If we have more than one purpose, we may need more than one map *even if* there is only one ultimate reality.\textsuperscript{20}
g) *When Maps Overlap, They Can Disagree. So What?*

Suppose I have two maps, and they disagree. I infer from one that I should take the freeway; the other says the freeway is closed. If I discard one, I make disagreement vanish, but that doesn’t solve the problem. Disagreement is informative, telling me I need to pay attention. I cannot trust any map blindly. So, when maps are imperfect, there are worse things than having more than one. If I notice that they disagree, I check whether one is out of date, or consult a local resident. If I see grains of truth in incompatible theories, must I discard one for the sake of consistency? No, not if theories are maps.

II. *Theories Are Compromises*

When we theorize, we seek to render what we know simple enough to be understood, stated, and applied. If we try to describe verbally every nuance of justice’s complexity, we get something so unwieldy that it may not appear to be a theory at all. If instead we try to simplify, homing in on justice’s essence, we get incompleteness or inaccuracy. The task is like trying to represent three-dimensional terrain in two dimensions. Mapmakers projecting from three dimensions onto two can accurately represent size or shape, but not both. Mercator projections depict lines of longitude as parallel, more or less accurately representing continental shapes at a cost of distorting relative size. Greenland looks as big as Africa but in fact is one fourteenth as large. Peters projections also treat lines of longitude as parallel, but solve “Greenland” problems by collapsing vertical space at polar latitudes. Relative sizes are reasonably accurate, but shapes are distorted. Goode’s Homolosine is better at representing individual continents at a cost of depicting the world as a globe whose surface has been peeled like an orange.
Figure 1. Mercator Projection, Peters World Map, Goode’s Homolosine
The Peters Projection World Map was produced with the support of the United Nations Development Programme. For maps and other related teaching materials contact: ODT, Inc., PO Box 134, Amherst MA 01004 USA; (800-736-1293; Fax: 413-549-3503; E-mail: odtstore@odt.org).
In short, mapmaking, like theorizing, is a messy activity. Mapmakers choose how to represent worlds, and there is no perfect way of representing three-dimensional truth in two dimensions. Moral theorists choose how to represent justice, and there is no perfect way of representing in words everything we believe. Maps are not perfect. Neither are theories.

Yet, this is not a skeptical view! There remains an objective truth that the map can represent (or fail to represent) in a helpful way. Regardless of whether partisans of Mercator and Peters projections ever settle which representation best serves a particular user’s purposes, there will remain a three-dimensional truth of the matter.

III. ARTICULATING THE CODE

When hiking in the Tucson mountains, I can see the difference between a pincushion cactus and a hedgehog cactus. I see the difference even while doubting I can state the difference. If I try to state the difference, my statement will be incomplete, or will have counterexamples. Our ability to track norms of justice similarly exceeds and precedes our ability to articulate the norms being tracked. Indeed, if being able to track X presupposed verbal skills we develop only in graduate school, then X could not function in society as norms of justice must.

Any code we can articulate is no more than a rough summary of wisdom gleaned from experience, that is, wisdom about where we have been. Our articulated wisdom will be useful going forward, since the future will be somewhat like the past. Yet, the future will be novel, too. No code is guaranteed to anticipate every contingency, which is to say, no formula (so far) unerringly prescribes choices for all situations.

We can list four or more elements of justice without ever being sure we have listed
everything that people could ever be due. Similarly, we can list metaethical standards to which such elements are answerable without ever being sure we have listed everything that could count as a reason to endorse one conception of justice rather than another. The theorists I know do not expect their theories to tell them what grade to assign, how to vote when the hiring committee meets, or whether to cancel class. The wisdom and insight that enable us to see what to do are not precipitates of a theory in any straightforward way, although theorizing may contribute to their development.

Knowing which principle to apply requires judgment. Judgment is codifiable in a way, yet exercising judgment is not like following a code. Consider a simpler issue: can a code tell investors when to buy and sell stocks? Market analysts look at histories of price fluctuations and see patterns. Patterns suggest formulas. Occasionally someone tries to sell such a formula, offering proof that the formula would have predicted every major price movement of the last fifty years. Investors buy the formula, which promptly fails to predict the next major move. My point: many phenomena are codifiable—exhibiting a pattern that, after the fact, can be expressed as a formula—but that does not mean the formula will help us make the next decision.

So, when business majors in ethics courses ask for “the code” the following of which is guaranteed to render all their future business decisions beyond reproach, we may have little to say, even if we think such a code is, in principle, out there awaiting discovery. Business majors tend to understand stock markets well enough to know they can expect only so much from a stock-picking code. Responsibility for exercising judgment ultimately lies with them, not with any code. Some of them have not done enough moral philosophy to know they likewise can expect only so much from a moral code. But we can tell them the truth: philosophers are in the business of articulating principles, not rules and not codes. Moral wisdom is less like knowing
answers to test questions and more like simply being aware that the test has begun.²³

IV. I COULD BE WRONG

The periodic table is a theoretical structure, but is literally a map rather than an analysis. It also is, like my theory, thoroughly metaphorical, defining families of elements—alkali metals, noble gases—more or less according to how they behave. (My four elements turn out to be families: at least two kinds of deserving, three ways of responding to favors, and two dimensions of equality, plus a complex hierarchy of needs.) And like my theory of justice, the periodic table is open-ended, allowing for discovery or even invention of new elements. The table is a simple, elegant, fruitful way of organizing the information we have. It may even be the best way, but it is not necessarily so. If it is the best way of organizing the information we have, it need not remain so as new information comes in.

Common sense thought about justice is pluralistic and contextually sensitive. Our thinking did not evolve in this way for no reason. Thinking as we do about our due helps us to live together. I have not tried to formulate necessary and sufficient conditions for X being just. There is only so much to gain from trying to articulate such conditions, and there are other kinds of analysis. Economists tend to look not for necessary and sufficient conditions but for functional relationships: how Y varies as a function of X. A rise in the money supply is neither necessary nor sufficient for a rise in the inflation rate, but that is not the point. The point is that, other things equal, changing the money supply will affect prices. Exceptions to this rule tell us that something interesting is going on.

No philosopher is widely regarded as having succeeded in developing a viable theory of
justice. I am under no illusion that mine will be the first. I do not represent any of this as compelling. Your way of understanding justice will differ from mine. You will have different answers, perhaps even different questions. That is not a problem.

I offer my results as meditations, not deductions. Gaps in a theory fire imaginations (or at least inspire replies), so I have not tried to hide the gaps. Socrates taught us that wisdom is not about how much we know; it is about seeing how much more there is to learn. Some aspects of this terrain remain hidden to me. The best I can do is to leave them alone until I learn more.

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1 Fried 2005, 221.
2 Nietzsche 1969, 80.
3 For a superb concise discussion, see Gaus 2000, chap. 1. Gaus quotes Wittgenstein (§ 66) as follows:

> Consider for example the proceedings that we call “games.” I mean board-games, card-games, Olympic games, and so on. What is common to them all? Don’t say; there must be something common, or that they would not be called “games”—but look and see whether there is anything common to all. For if you look at them you will not see something that is common to all, but similarities, relationships. And a whole series of them at that. To repeat: don’t think, look!

4 I am not denying that we can do justice to animals, opportunities, and ourselves. Likewise, the Grand Canyon in some sense deserves its reputation. My focus here is on the connection between doing justice to X and giving X its due, not on what can substitute for the variable X.

5 Rawls 1971, 5. See also Hart 1961, 155-59.
6 Williams (1985, 115) says this about conceptions of morality.
7 Rawls says, “We cannot, in general, assess a conception of justice by its distributive role alone, however useful this role may be in identifying the concept of justice. We must take into account its wider connections; for even though justice has a certain priority, being the most important virtue of institutions, it is still true that, other things equal, one conception of justice is preferable to another when its broader consequences are more desirable” (1971, 6).
8 Positive externalities are benefits that spill over to enrich the lives of “innocent bystanders.” The following discussion pertains more to negative externalities.

9 Shue 2002, 395.
10 Nozick 1974, 93.
11 Even if I could not vote for Karsten in that hypothetical case, it would remain true that I should do such things as mention his name in my book, so he knows I have not forgotten my duty to be worthy of the chance he gave me.
12 Christopher Wellman suggests my theory is like Walzer’s in recognizing spheres of justice, but, Wellman also suggests, when Walzer speaks of spheres (1983, 28ff), he is seeing justice as relativized to forms of life within particular communities, whereas I speak of ranges of application of particular principles without assuming ranges are geographically limited. So, the metaphor of spheres suggests a similarity that is not there. Walzer does believe in a plurality of principles, so that similarity is real, but Walzer does not belabor this aspect of his theory. In any case, I will try not to exaggerate differences or similarities between my theory and the theories of others.
13 I thank Clark Durant for the tectonic plate metaphor.
14 Gilbert Harman says, “There are no pure observations. Observations are always ‘theory-laden.’ What you perceive depends to some extent on the theory you hold, consciously or unconsciously. You see some children pour gasoline on a cat and ignite it. To really see that, you have to possess a great deal of knowledge . . . you see what you do because of the theories you hold. Change those theories and you would see something else” (1988, 120). The lesson to take from Harman’s theory-laden “observation” is that ‘theory-laden’ is a relative term. Even the bare observation that the cat is on fire can be viewed as theory-laden (depending on your theory), but it is less theory-laden than a view that lighting the cat on fire is wrong, which in turn is less theory-laden than a view that lighting the cat on fire is
wrong because it causes needless suffering. My point: a context is a situation that raises a question like, “What do I owe the cat?” Answers will be theory-laden, but the question itself, relatively speaking, is not.

I speak of cosmic justice because saying what Jane is due leaves open whether anyone has a duty, or even a right, to make sure Jane gets her due.

John Locke (Second Treatise, chap. 6, sec. 55) says children are not born in a full state of equality, but they are born to it. I thank Chaim Katz for the reminder.

I thank Jenann Ismael for several educational and enjoyable conversations about theories as maps.

This is equally true of scientific theorizing. For example, to those who want to understand nature in secular terms, Darwinism is a serviceable map. It does not explain everything, but it explains a lot. Darwinism is rejected by Creationists, though. Why? Not because it fails to help them understand the origin of species in secular terms, but because they have a different destination.

I owe the following thoughts to a conversation with Fred Miller: Whether a plastic model of the Parthenon is accurate has nothing to do with the fact that the model is made of plastic, because viewers somehow understand that the model is not representing the Parthenon as made of plastic. If the model were to depict the Parthenon as circular, that would make it false, because the model’s shape is a depiction in a way that the plastic material is not.

My theory that theories are like maps is a theory: a way of systematizing and articulating how I see the activity of theorizing. The activity of theorizing is the reality; my “map theory” is my attempt to describe that reality. If my “map theory” is correct, it will have the limitations that maps tend to have.

Robert Louden (1992, 8) says, “the existence of conflicting types of ethical theories is both intellectually healthy and close to inevitable.”

Legal reasoning often appeals to a “reasonable man” standard. Whether Bob is negligent for having backed his van over a neighbor’s bicycle depends on what precautions a reasonable person would take before backing out of the driveway, and whether taking such precautions would have enabled Bob to avoid the bicycle. What is nice about reasonable person standards is that they do not raise false hopes regarding how comprehensive and how unified the enumeration of reasons that constitutes a theory can be. If Bob had to back his van through the neighbor’s fence in order to run over the bicycle, Bob presumably is at fault. However, the fence’s salience derives less from a list of principles than from grasping the details of the case.

Think of experiments in moral psychology where people fail to lend aid, fail to stand up for the truth, or succumb to pressure to torture fellow subjects. Now imagine the guy in the lab coat warning subjects that the point of the experiment is to test their moral integrity. My conjecture: such warning would systematically affect subjects’ behavior. Why? Not because the lab coat would be giving out answers. He would not be. All the lab coat would be doing is warning subjects that they are about to be tested. That life is about to test their character, though, is something people of wisdom get up every morning already knowing.