

Introduction to *Equality and Justice: Social Contract and the Currency of Justice*, Peter Vallentyne, ed., Routledge, 2003.

Social Contract and the Currency of Justice: An Introduction

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This is the fifth volume of *Equality and Justice*, a six-volume collection of the most important articles of the twentieth century on the topic of justice and equality. This volume addresses two issues: (1) contractarian conceptions of justice, and (2) the question of what kinds of goods justice is concerned with (welfare, initial opportunity for welfare, resources, capabilities, etc.). The latter topic is a continuation from volume four (which could not contain all the relevant articles). Other volumes address the following issues: (1) the concept of justice, (2) whether justice is primarily a demand on individuals or on societies, and (3) the relative merits of conceptions of justice based on equality, on priority for those who have less, and on ensuring that everyone has a basic minimum, of the relevant goods (Volume 1); whether justice requires equality of some sort (Volume 2); the question of who (animals, members of other societies, future people, etc.) is owed justice (Volume 3); the question of what kinds of goods (welfare, initial opportunity for welfare, resources, capabilities, etc.) are relevant for justice (Volume 4 and part of this volume); and desert and entitlement conceptions of justice (Volume 6).

1. Social Contract

Contractarian theories of justice hold that an action, or social structure, is just if and only if it, or principles to which it conforms, would be agreed to (or: not rejected) by the members of society under certain specified conditions. Ethical contractarian theories of justice are concerned with

assessing the justice of individual actions, whereas political contractarian theories are concerned with assessing the justice of social structures. Most contractarian theories are indirect in that they first select principles on the basis of the hypothetical agreement and then assess their objects (actions or social structures) in terms of their conformance to those principles. They hold, for example, that a social structure is just if and only if it conforms to the principles that would be agreed to under the specified conditions. Contractarian theories can, however, also take a more direct form and assess their objects (e.g., social structures) directly in terms of hypothetical agreement (e.g., a social structure is just if and only if it would be agreed to under the specified conditions).

One of the strengths of contractarianism is that, by requiring unanimity, it takes the separateness of individuals seriously. Each person must agree. One of the main objections is that it is unclear why hypothetical (as opposed to actual) agreement carries any normative force.

Contractarian theories differ in their specification of the conditions under which the hypothetical agreement is to take place. There are three main issues: (1) What is the non-agreement outcome (that which happens if they fail to agree)? (2) What beliefs do the contractors have about themselves and their position in society? (3) What kinds of desires do the contractors have (e.g., purely self-interested vs. partially altruistic desires) and on what basis do they choose (e.g., on the basis of expected utility)? Broadly speaking, there are three main traditions in how these questions are answered. Hobbesian theories (following Thomas Hobbes [1588-1679]) tend to hold that the non-agreement outcome is a non-moral state of nature in which there is a war of all against all. The contractors are assumed to have their normal beliefs about their capacities and position in society, and they are assumed to be purely, or at least predominantly, self-interested. James Buchanan defends such a theory in *The Limits of Liberty: Between Anarchy and Leviathan*. Lockean theories (following John Locke [1632-1704]) have a similar view, except that they view

the non-agreement outcome as a moral state of nature in which people's basic rights are respected, but in which various public goods are not provided. David Gauthier defends a view of this sort in *Morals by Agreement* (although his view also has significant Hobbesian elements).

Kantians (following Immanuel Kant [1724-1804]) differ from both Hobbesians and Lockeans in that they impose conditions that ensure that the contractors choose without special consideration for their own interests. In his enormously influential *A Theory of Justice*, John Rawls specifies that the contractors are behind a "veil of ignorance", where this means that they know nothing about their capacities or their place in society. Each chooses on the basis of her self-interest, but, since she does not know specifically what that is, each chooses on the basis of general considerations that apply equally to all. A different kind of Kantian view is defended by T.M. Scanlon. It allows that agents have their normal beliefs, but stipulates that, for the purpose of the contract, agents are assumed to be moved to choose principles for the general regulation of behavior that others, similarly motivated, could not reasonably reject as a basis for informed, unforced, general agreement. (Scanlon's contractarian theory is ethical, whereas Rawls' is political.)

The most influential contemporary contractarian theory is clearly that of John Rawls. It is therefore worth noting that, on the basis of his Kantian contractarian theory, he defends a kind of liberty-constrained egalitarianism. More specifically, he argues that the following Two Principles would be chosen by the contractors:

- (1) Everyone should have the most extensive basic liberties compatible with others having the same liberties.
- (2) To the extent compatible with the first principle, social and economic inequalities should be:
 - (a) attached to positions that are open to all under conditions of fair equality of opportunity, and
 - (b) to the extent compatible with the above, distributed in a way that is most advantageous to the

least advantaged members of societies.

One important question about Rawls' work is whether his contractarian theory really does lead to these principles. Even if it does not, these principles might be defended by an egalitarian directly rather than via a contractarian device.

2. The Currency of Justice

What is the currency of justice? With what kinds of goods, that is, is justice concerned? Some of the main contenders are well-being (quality of life), initial opportunity for well-being, brute luck well-being, initial opportunity for resources, brute luck resources, freedom, social status, primary goods, and capabilities. This issue is dealt with primarily in Volume 4 *Equality and Justice: Distribution of What?* The reader should consult that volume for a full introduction and for readings discussing well-being and resources (including initial opportunity and brute luck variants) as the concern of justice. The present volume includes reading on social status, primary goods, capabilities, and other views.

Suggested Further Reading on Contractarianism

- Ackerman, Bruce. *Social Justice in the Liberal State* (New Haven: Yale University Press, 1980).
- Barry, Brian. *Theories of Justice* (Berkeley: University of California Press, 1989).
- Barry, Brian. *Justice as Impartiality* (Oxford: Clarendon Press, 1995).
- Buchanan, James. *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago: The University of Chicago Press, 1975).
- Gauthier, David. *Morals by Agreement* (London: Oxford University Press, 1986).
- Habermas, Jürgen. *Legitimation Crisis* (Boston: Beacon Press, 1973).
- Hampton, Jean. *Hobbes and the Social Contract Tradition* (Cambridge: Cambridge University Press, 1986).
- Kavka, Gregory S. *Hobbesian Moral and Political Theory* (Princeton, N.J.: Princeton University Press, 1986).
- Nozick, Robert. *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
- Rawls, John. *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
- Rawls, John. *Political Liberalism* (New York: Columbia University Press, 1993).
- Sandel, Michael. *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
- Scanlon, Thomas. *What We Owe to Each Other* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1998).