CHAPTER 8

Distributive Justice for Children

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1 Introduction

The debate on justice in philosophy revolves around two different problems. Roughly, the issue of retributive justice concerns the justification of punishment for crimes, whereas the problem of distributive justice has to do with who should get what goods. Large parts of the UN Convention of the Rights of the Child (CRC) can be read as spelling out what rights, resources and support children should have access to. This chapter, then, concerns distributive justice.

However, the problem of distributive justice tends to be conceptualized as a problem concerning adults. The social contract tradition in political philosophy is a case in point. It takes the problem of politics to be about a group of people who gather to come to an agreement about how they should live together. They set down the principles for this in a contract to which they all agree. Underlying this approach to justice are ideas of autonomy and, especially, responsibility. To be autonomous is to be self-governing.

Usually, this ideal is set out in three assumptions. An autonomous agent is rational, informed, and not coerced. If the parties to the agreement were not autonomous and hence not able to govern themselves, then it would be difficult to see the point of the contract exercise. Such assumptions of autonomy run deep in political philosophy.

One way of explaining what it is to be a child is to say that it is to be a person who has yet to develop autonomy. This is also what justifies giving children education. They have a need to become informed and to develop their capacity

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for rationality. Another way of thinking about childhood is that it is a period of vulnerability. If the autonomy of children is vulnerable, then it would be wrong to hold them accountable in the same way as autonomous adults.

Both ideas of childhood point in the same direction: we should not hold children responsible the same way we do adults, and perhaps we should not hold children responsible at all in this regard. This is not because children would be in some sense worse off than adults, but because they are different in a morally relevant way. In this chapter, I will investigate what happens to theories of justice if children and related ideas of responsibility are taken seriously. In particular, I will look at issues of equality of education through this lens.

In order to have an account of distributive justice, one needs to define both a principle of distribution and a metric of justice. A principle of distributive justice specifies how things should be distributed. One example is the principle of strict equality – that each person should have an equal amount of what is valuable – but, somewhat surprisingly, equality has been understood in several different ways in recent literature.

Some have suggested that justice is about each person having a sufficient but not necessarily equal amount of what is valuable. Others have proposed that equality should be understood as responsibility-catering, so that a just distribution tracks responsibility where appropriate. Another approach starts from the observation that we could care about equality either because we find it important that each person gets an equal share or because we care about the situation of those who are worst off. A prioritarian principle of justice then says that justice demands the distribution that is most beneficial to the least fortunate, even if this distribution is unequal. In this chapter, however, we will

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5 Cf. Adami, R., Chapter 6 in this volume.
6 Cf. Leviner, P., and Holappa, T., Chapter 2 in this volume.
not focus on this question, but will instead investigate a set of topics that are more directly connected to how childhood may affect an account of justice.

In particular, we will focus on the metric of justice. This is an account of the goods with which the theory of justice is concerned. If we say e.g. that justice has to do with equality, then we must ask: equality of what? In the next section, we investigate how the assumption of responsibility and taking childhood seriously affect what this metric might be. Our answers there will have impact on other aspects of the theory of justice. Section three addresses the topic of time and justice; if the metric of justice involves goods that are only or especially valuable in childhood, then it seems that some costs in terms of such a metric cannot be compensated for in adulthood. Section 4 applies a distinction regarding approaches to justice – usually found in debates about economic policy – to the issue of education. Redistribution is where resources are redeployed to help out people who find themselves in a problematic situation, whereas pre-distribution is the idea that we should ensure that people have sufficient resources to avoid problematic situations.

The final section investigates whether there might be several different problems of justice, so that, for instance, one principle might be appropriate for the sphere of healthcare while some other rule may be more to the point for education. The chapter also sums up an account of distributive justice which takes children seriously by saying that the fundamental problem of justice is how to organize the main social institutions so that they cohere into a single, just system of social cooperation. This means, importantly, that e.g. the education system should be understood as working together with other important institutions like the family and the labour market. It means also that the institution of education may run on one principle of justice, but that the appropriate principle of justice for teachers may be another.

2 The Metric of Justice

If justice is about the distribution of some good, it of course becomes very important to figure out exactly what that good is. No one who has argued for equality has claimed that justice means that each person should get to watch an equal number of badminton games, or have the same number of hairs on their heads. A metric of justice should be something that is important for how

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one’s life goes but abstract enough to avoid the specificity of amounts of bad-minton games. A salient idea is that justice is about welfare.

In this context, welfare usually means either happiness – to be in mental states that are inherently rewarding – or preferences satisfaction, i.e. getting what one prefers. Note that this use of the term ‘welfare’ is distinct from the one used when we talk about the welfare state. The idea is that justice is achieved when everyone is equally happy. However, this idea is less popular than one might think; to understand why, we can turn to a much-discussed example that illustrates two things: the striking focus on the issues of adults in scholarship on the theory of justice, and the important role in this debate of the value of personal responsibility.

Assume that we have achieved equality of welfare and that there is a person – usually known as Louis – who finds that he wants to try a new approach to life. In particular, he wants to be an expert on wine. He sets out to develop a very refined sense for fine wine and succeeds. However, this has a drawback: because fine wine is very expensive, he can seldom afford to have it, and this means that he will be less happy than people in general most of the time. Now, if our goal is equality of welfare and Louis is less happy than other people, then the straightforward implication is that other people should subsidize Louis’s new expensive hobby. This, however, seems unfair since the inequality in welfare is the result of Louis’s own choices. He is an autonomous agent and as such responsible for his actions.

Such arguments have led many political philosophers to turn instead to resourcism. This is the view that the metric of justice should be a set of important resources. Views differ on exactly what these resources are, but they can include such things as money, education, and liberties. However, there is agreement on the idea that giving people resources retains the value of personal responsibility. This can be seen in the Louis case. If we start out from equality of resources, then the ideal remains satisfied – even if Louis develops an expensive taste. If justice is about resources, Louis is accountable for the tastes he develops. He will still have e.g. the same amount of money as other people, and if he had made other choices, he could have avoided the frustration he experiences.

Moreover, resourcism is neutral about the content of the good life. Autonomous persons in free societies will disagree about what the good life

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consists of; some will decide to be religious, others will be hedonists, and yet others will think that Immanuel Kant figured it all out.\textsuperscript{15} It would be unfair of the state to favour one of these views above the others. For reasons of both responsibility and neutrality, the metric of justice should be resources.

This line of argument seems to make good sense until one starts taking children into account. This is not only because we have discussed an example concerning wine, but rather because if children are persons who have yet to develop autonomy, they seem to fall outside the scope of justice.\textsuperscript{16} The same holds true if we have reasons not to hold children responsible due to vulnerability.

Therefore, holding children responsible through resourcism seems unfair, and neutrality for persons who have yet to form a conception of the good life seems uncalled for. Moreover, the counterargument from expensive tastes to welfare as the metric of justice does not hold for children. The reason we moved from welfare to resources was that Louis was responsible for his choices, but if children are not yet fully autonomous, the conditions for holding them morally responsible are not satisfied. If Louis were a child that decided to take up sport fishing, there would be no reason in terms of justice to say that he should be personally responsible for the incurred costs. The argument for welfare still stands for the case of children.

This seems to create a problem for formulating a theory of the metric of justice. The reasons from adulthood do not apply to childhood and vice versa. The solution, of course, is to go for a pluralist metric of justice.\textsuperscript{17} We could then say that what we owe as a matter of justice to adults are resources, but what we owe to children is welfare. There is one complication to this simple pluralism: children will become adults, and as future adults they need some resources in childhood, irrespective of whether these resources improve their welfare as children. Let us call such resources preparatory goods. One such paramount preparatory good is education.

However, there are other alternatives for determining the metric, the most important of which is what has come to be known as the capabilities approach.\textsuperscript{18} This metric is concerned with what people can do and be. This is a

quite common approach to children and justice. However, at first glance, the capabilities approach shares a problem with resourcism. To have a capability is to have the ability to choose a good, such as health or being able to read and write. Children, however, should have health and reading comprehension, and not just the opportunity to acquire and benefit from such functionings.

So why not just say, then, that children should have functionings and adults should have capabilities? Some may worry that a position that contains childhood welfare (or the functioning of happiness) cannot make sense in terms of justice for children. For instance, does it make sense to think of equality of education in terms of welfare, when schooling aims to prepare pupils for their future lives?

A very influential example in the literature on childhood can be used to illustrate that even education needs to concern itself with welfare. Compare two schools, one of which has a large programme for extra-curricular activities, and another that does not. However, each are equally good at providing the pupils with resources for their future lives, as measured by e.g. grades. Are the schools equally good in a way that allows us to say that equality of education is satisfied? Intuitively, we might view one school – the fun one – as better than the other. But could that amount to an injustice? Colin Macleod argues that it does: ‘[s]urely the difference is one that is salient from the point of view of justice since it is unreasonable to hold the children responsible for the significant differences in the quality of their childhoods’. Children are owed both preparatory goods and welfare.

3 Timeframes

For the sake of argument, assume that we have agreed on thinking about distributive justice as the notion that each person should have equal resources. Now, how should we think of a situation where Bill gives Ted a birthday present? In one way, this creates an inequality in terms of resources, and seems to


imply that Ted should give the present back to Bill, but that would be an odd application of a theory of justice. What this example illustrates is that when developing a theory of justice, one must think about the timeframe over which justice ranges.

Two timeframes are salient here. In the example above, the timeframe was instantaneous, but a more common approach to time is to think of justice over whole lives. The standard approach in theories of justice is arguably to take the whole life into account. However, to avoid the perception that this is a very easy choice, we should note that choosing one or the other timeframe probably also depends on one’s own view of the principle of justice.

Modern egalitarianism started with Rousseau, who conceived of equality as having to do with a floor of resources below which no one should fall and a ceiling above which no one should be able to go, because exceeding the ceiling would give people too much power over others. If this is what we mean by equality, then we might want to say that every time someone becomes so poor that he or she falls below the threshold, or becomes wealthy enough to be too powerful, it is a problem of justice.

Nevertheless, we have some reason to focus on the whole-life view: we tend to be concerned with how whole lives go, and particularly so for children. We care about their futures. However, there is reason to think that the seemingly plausible whole-life view must be specified in more detail. We can see why this is so when we turn to the idea of how to conceive of children’s welfare.

We said above that welfare is usually understood as either preference satisfaction or as being in pleasurable mental states. Now, for persons who have yet to achieve autonomy, getting their wishes fulfilled does not seem necessarily valuable, so let us focus on the mental-state view. In particular, let us look closer at an account of welfare for children, developed by Anthony Skelton, which says that such welfare ‘consists in being happy in what is worthy of happiness’.

Here is one reason to take such a view seriously; there is something of particular value with childhood. Specifically, it is a part of life where one has special access to what has been called the intrinsic goods of childhood. Examples of

such goods are learning, play, discovery of the world at one’s own pace, carefreeness, and unstructured time to developing capacities not related to work.\textsuperscript{24} If it is true that we owe children a good childhood, where goodness is given by intrinsic goods of childhood, and a happy childhood, then we could combine these ideas and say that child welfare is being happy in virtue of the intrinsic goods of childhood.

If this position is true, it creates two potential problems. First, this view of welfare amounts to a form of restricted perfectionism; it combines perfectionism for children with neutrality for adults.\textsuperscript{25} If neutrality is an important value, would this account of children’s welfare conflict with justice for adults? There is reason to think that the combination of perfectionism for children with neutrality for adults can be successful. Goods like free play, learning, or carefreeness do not constrain one to become Kantian or religious as an adult. Moreover, these goods are to be complemented with neutral preparatory goods in terms of the pluralist metric we have been investigating here.

The second problem, however, will force us to revise our timeframe account. If intrinsic goods of childhood are particularly or specifically accessible in childhood, then it seems that a lack of such welfare cannot be fully compensated for in adulthood.\textsuperscript{26} Free and carefree play seems valuable in a much more fundamental way for children than for the middle aged, so that childhood spent only studying and preparing for adulthood seems to lack something important that could not be compensated by any amount of opportunities to play at the age of 49. In terms of Macleod’s school example, even if the school with the fun extra-curricular activities would provide at least a little worse preparation for adulthood, it may be the better school because it would take children’s welfare interests into account.

Summing up, we have now reached the following position. The metric of justice for adults should be resources, but for children it is a combination of preparatory goods and welfare. Childhood welfare should be conceived of as happiness based on the experience of intrinsic goods of childhood. The timeframe for the adult part of the metric can be whole lives, but for childhood

\begin{itemize}
\item For an overview of recent arguments regarding the value of childhood, see Gheaus, A., ‘Childhood: Value and Duties’, \textit{Philosophy Compass} 16, no. 12 (2021): 1–11.
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welfare it must be for the period during which intrinsic goods of childhood are accessible. That means that the timeframe for childhood welfare must be the period of childhood. If this is true, then justice demands that each child should have a just level of welfare.

4 Re- and Pre-distribution

Here are two ways of conceiving of policies for achieving distributive justice: helping people out of poverty or ensuring that people do not fall into poverty.\(^27\) In the first case, we talk of redistribution and the second case we call pre-distribution. One can see the difference in perspective play out in general economic policy. A redistributive policy would be unemployment insurance – if you become unemployed you will get economic support – whereas a pre-distributive policy would be to ensure that property rights are defined so that unemployment does not entail a potential economic disaster for the person involved. For instance, if each person has sufficient funds – e.g. through a universal basic income – to be able to handle a period of unemployment, then the labour market as an institution will be designed so that there is less or little potential for people to fall into destitution.

Unemployment insurance may seem to have little bearing on justice for children, so here is an example from the educational sphere. Dyslexic pupils can get access to technical solutions such as reading and speech-to-text software. Should such aid be available to all pupils ahead of time or given out on a need basis? In other words, should we take a pre- or redistributive approach to this issue? It might be an open question as to which approach is more suitable for adults, but there seems to be a strong case for thinking about justice for children in a pre-distributive manner.

A reason to prefer redistribution is that it assumes responsibility in distributive justice. As we have seen, however, we have reason to think differently about holding children responsible. That seems a prima facie reason for taking a pre-distributive approach to educational equality. There may also be positive reasons for doing so. Pre-distribution seems to fit better with ideals of relational equality. If it is a goal of justice to ensure that people should see themselves as equal and act accordingly, then this goal would be better served in a society where peoples’ needs are not consistently assessed, and assistance doled out after such assessments.\(^28\) Developing a school system where some

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pupils are not singled out needlessly as requiring special assistance seems preferable from this perspective.

An important upshot of this debate is that thinking about justice can mean thinking about institutions and how they should be designed, not just about who should get which resources here and now. This is also a lesson from the dyslexia example. For policy regarding children, a pre-distributive approach seems especially suitable.

5 Spheres of Justice

However, perhaps the search for a theory of justice is misguided. Michael Walzer suggests that we should conceive of society as consisting of a set of spheres of justice. Justice in healthcare may concern medical needs, whereas just wages could be understood in terms of reward. Indeed, sometimes this is how we think about education; an equal education might be one that gives each pupil equal grades or sufficient knowledge to handle society as a citizen and employee. But in that case, what might be the correct principle for this sphere?

We can investigate this by turning to Christopher Jenck’s useful example of Ms. Higgins. She is thinking about how, as a teacher, she should go about making sure that she is treating the pupils in her classroom fairly. She starts from the assumption that she ought to spend an equal amount of time on each pupil, but then starts to wonder whether this is really fair when some pupils work harder than others. The harder-working students seem to deserve more attention – but then again, motivation seems to be a function of social background, which is a matter of luck, not choice. Therefore, it seems to Ms. Higgins that justice demands that she compensates for such luck of the draw.

However, if the result of nurture is the consequence of a kind of lottery, it seems that the outcome of nature is also the consequence of a lottery. Ms. Higgins decides to compensate for both lotteries, but soon finds that this is a practically impossible task, not the least for informational reasons. Therefore, she turns to the more practical approach of rewarding effort and indirectly punishing lack of effort. Finding the proper balance, however, turns out to be as complicated here as with the natural and social lottery. In the end, Ms.

Higgins decides to share her time equally between all pupils, but that just brings us back where we started.

Justice in the sphere of education is difficult, but perhaps we can make headway if we return to a point made above. Was not justice supposed to be about how institutions are organized? Here is one way to think about different kinds of problems of justice. We can make distinctions between global, domestic, and local justice. Global justice as the name indicates, is about what a just world would be. Oftentimes, when we think about justice in general, we tend to think of how individual countries should be organized to be considered just. This would be a question of domestic justice.

If one takes this approach, then the fundamental problem of justice is how to organize the main social institutions so that they cohere into a single, just system of social cooperation. This means that the education system should be understood as working together with other important institutions such as the family and the labour market. Ms. Higgins is trying to handle the third kind of justice problem: that of local justice. This is the problem of how to act justly within institutions. Now, one can choose from several ways to create coherence between these levels. For instance, one could take the global level as fundamental and try to derive justice on the other levels from the demands of global justice. Here, however, let us take the following approach. Because the world is organized through countries and the way the country that we live in has a fundamental, comprehensive effect on how our lives turn out, we can take domestic justice as our starting point.

What would that mean for the account of justice we have sketched? It would mean that justice is about how we organize the institutions of society into one coherent whole, based on principles of justice that concern resources for adults and preparatory goods and welfare for children, while taking a predistributive perspective on policy. Importantly, we use a whole life timeframe for resources, but apply a childhood timeframe for children's welfare. This, then, sets the institutional background for Ms. Higgins's problem.

The educational system and the classroom are part of a larger system of institutions that should be organized so that justice in society prevails. The question is now how Ms. Higgins should act in the classroom according to a principle of local justice, given a just intuitional framework. One approach would be that the same principle of justice should guide both institutional design and local justice, but perhaps how Ms. Higgins should act as a teacher

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is distinct from the question of how the institution of the educational system should be designed.

Assume that family law, the tax system, housing, and schools are organized to ensure that each child achieves a sufficient level of resources and welfare. For the educational system, this would mean that the curriculum, potential school choice systems, provision of course materials, quality of school premises, school lunches, access to educational aids, etc. all are provided with this goal in mind. What, then, would be the best conception of the teacher’s role?

There seem to be two conditions on such a principle of local justice: 1) it should work in tandem with the principles of domestic justice, and 2) it should express equal concern and respect for each person. The first condition is motivated by the importance of not undermining domestic justice. The second condition expresses the common idea that whatever justice is, it must be understood as assessing each life as equally important.

These conditions suggest that a principle not considered by Ms. Higgins in the scenario described above, namely the prioritarian principle of helping the pupil who most needs help, might be an appropriate principle of local justice for education. Such a principle would support domestic justice in that it would help achieve the goal, on the domestic level, of assuring that each pupil is brought above the threshold of resources and welfare. It would express respect by providing help to each person who needs it and concern by taking their needs as a basis for giving help. Moreover, it seems an appropriate principle for children because it is not responsibility-sensitive. Children are not responsible for their need of help. In other words, if this account is correct, Ms. Higgins should devote her time, on the basis of a principle of local justice, to helping the children who need the most help.

Distributive justice for children asks different questions than justice for adults. Taking children seriously when developing an account of justice means that we must rethink our assumptions of autonomy and responsibility, reform our accounts of the metric of justice and of timeframes, and take a second look at our approaches to re- and pre-distribution as well as the spheres of justice.

References


