**Christian Ethics and Capital Markets**

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**Introduction**

As a student at Yale Divinity School, studying theological and political ethics, I often felt as if I were the “token capitalist”; called upon to participate in panels regarding issues of business and economics to espouse the virtues of capitalism and seen in many seminar courses as the one willing to proffer a capitalist apologetic. I was surprised, and more rarely, appalled by the seeming lack of understanding of basic financial and economic theory amongst some of my classmates as illustrated by their enthusiastic espousal of failed economic systems shown, without question, to be detrimental to the freedom and autonomy of both individuals and societies alike. Yet, often I heard these failed social and economic systems being held up as beacons of Christian virtue and social justice.

 To place this discussion in the proper context it is important to note that I am not an ideologue. I am a pragmatist. My aim is to consider facts and draw conclusions based on the best evidence available. However, I do not hesitate to state that my views on questions of economics are more akin to those of Milton Friedman and Robert Schiller than the paternalism enthusiastically espoused by Cass Sunstein and Paul Kruggman.

 The argument I present here, however, is not about capitalism but rather specifically addresses the fuel which powers both mature and emerging economies alike: capital markets. I will offer brief comments on the history and social impact of both capitalism and industrialization but only to provide context for the narrow discussion of capital generally and capital markets specifically. [[1]](#footnote-1)

 My thesis is motivated by my experience at Yale and can be stated quite simply; that is that capital markets, in the aggregate, are a force for social good which should be governed by practical normative ethics and that rather than be held in suspicion or even disdain by Christian ethicists and people of faith, the power and efficacy of capital markets can and should be harnessed by faith communities to amplify their moral, ecclesiastical, humanitarian, and pastoral duties.

**Christian Ethics, Briefly Defined**

 Before discussing Christian Ethics and capital Markets however, I must first provide a very basic, if not overly-simplistic, definition of Christian Ethics as they relate to issues of economics and individual worth. Without question Christian ethics mandate charity and service to the poor, the exploited, and the marginal. Perhaps this message is best encapsulated in the two great commandments: love God and love your neighbor as yourself. Christians then, are to be more concerned with the welfare of others than they are with their own well being and self interest.[[2]](#footnote-2) Such a state requires patience, love, humility, empathy, and sympathy. One of the most vital messages found in the Gospel of John is that Christian discipleship is best demonstrated by having true love for one another.[[3]](#footnote-3) Christian ethics therefore, demand a selfless concern for others; a call to truly consider the personhood of “the other.”[[4]](#footnote-4) Many times a kind word, a simple phone call, or a small act of charity is enough to lift the spirits of the downtrodden.

 Yet, there are many times when providing Christian charity requires tangible resources beyond what these simpler acts can achieve in isolation. To give to the poor requires the existence of resources; a concept Jesus recognized when he instructed the young rich man to sell all that he possessed and give the proceeds to the poor.[[5]](#footnote-5) Good intentions alone do not provide food for the hungry or shelter for the homeless.

 Another key component of Christian ethics, and one which I fear is too often overlooked, is the duty to magnify the gifts provided by the divine. The Parable of the Talents, as found in both Matthew and Luke – while teaching Jesus’ eschatological vision of the coming Kingdom of God – also demonstrate the duty of those to whom God has given gifts, to care for, nurture and grow their endowment in service of the Master.[[6]](#footnote-6)

 It is my contention that capital markets represent an opportunity, for both individual Christians and communities of faith alike – especially those fortunate enough to live in developed parts of the world, to magnify their endowment and utilize the resultant resources to fulfill their Christian duty to care for the poor, protect the weak and promote justice.

 There is an important distinction that must be made between resources and capital; the distinction is subtle and lies in how resources are employed. Fuel for an automobile or a single harvest of wheat are both resources in that once they are consumed, they are gone forever. Capital, on the other hand, is formally defined as accumulated wealth reproductively employed.[[7]](#footnote-7) This is a key distinction and, for the most part, a modern construct resulting from industrialization beginning in the 17th century. Capital, unlike finite resources, is employed in such a way as to create additional capital which capital in turn, is then used to enable additional growth. For example, a small business owner utilizes capital to hire employees, purchase new equipment, and operate his or her business with the expectation that these capital investments will result in profit. In many cases, a large portion of these profits are reinvested in the business – these profits are specifically referred to as retained earnings – to enable even further growth.

 Thus the need for capital markets. Capital markets allow holders of capital to either lend or invest this capital in ventures intended to employ capital resources reproductively. Holders of capital are compensated – either through interest payments or equity dividends – for the risk they take in providing capital to entrepreneurs, governments, or existing businesses seeking to start new ventures, build infrastructure, or expand operations.

 Within the marketplace Capital is provided in two primary forms: debt and equity. For example, a small business owner in need of new equipment can obtain capital for the purchase of this equipment by seeking a loan or by selling ownership stakes in his or her firm. In both cases, the provider of capital receives compensation for providing this capital resource. Capital markets then, provide the mechanism for providers and seekers of capital to come together, agree on terms, and execute transactions in a transparent, active, and open environment.

 Within modern economies millions of individuals – as part of small businesses, large corporations, or government entities -- interact daily trading capital amongst each other all with the goal of increasing the value of said capital, promoting economic growth, and building infrastructure that in turn, leads to further growth, new employment opportunities, and aggregate social benefit. Capital markets are social contracts governed by a set of both explicit and implicit contractual obligations between buyers and sellers of capital.

Some have suggested that business ethics generally should be governed by a deontological motive producing self-regulation. For example, Micewski and Troy argue : “any ethical reinvigoration of the business world can only be accomplished when the business realm imposes upon itself some effective measures of self-regulation that go beyond the increasing number of laws and rules passed by governing bodies and requirements mandated by the regulatory authorities” and state that “ethical custom is not enough.” Further: “since business has individualistic foundations and is real in its individual agents only, a sense of personal morality needs to be developed that takes into account deontological principles of ethical conduct.” Micewski and Troy concede “room for pursuing non-commercial forms of social responsibility is limited in economic enterprise, we argue that this room, however limited, has to be entirely filled by personal ethical responsibility [as] ethical responsibility in the business world is not all-encompassing, but whatever it offers for ethical behavior to take place, should be exploited to its fullest.”[[8]](#footnote-8)

While the sentiments expressed by Micewski and Troy are certainly admirable, they are simply not achievable on a macro level. Yes, firms, managers, employees, and capital market participants *should* conduct themselves according to a given set of ethical principles – deontological or otherwise. However, it is naïve to think that firms, managers, employees and market participants *will* conduct themselves according to these principles when faced with the competitive pressures of the marketplace. Both firms and individuals will seek out their own best interest. By its very nature, business is a competitive social interaction and any thought of outright altruistic moral behavior is hopeful, at best.

Emile Durkheim, perhaps one of the first business ethicists and one who viewed the ethics of commerce from a sociological perspective stated: “for where interest is the only ruling force each individual finds himself in a state of war with every other since nothing comes to mollify the egos, and any truce in this eternal antagonism would not be of long duration. There is nothing less constant than interest.”[[9]](#footnote-9) Social contract theorists from Hobbes to Rousseau have described polities in terms of this “state of war”[[10]](#footnote-10) and from this theoretical state derive various theories of social contract relating to the social sphere. Whether in business generally, capital markets, or “everyday” life, so to speak, human beings are in constant competition for limited resources and, as a result, must form social contacts to govern the distribution and proper use of these resources.

Unlike Hobbes, Locke, and Rousseau, John Rawls uses the theoretical concept of the social contract not to devise or define the ideal polity but rather, to define *justice* generally. From the theoretical “original position” that constitutes Rawls’ conception of the social contract come two basic principles (relating to justice within the social sphere) which serve to shore up Rawls’ central tenet of justice as fairness.

Rawls contends that two basic principles would come for the theoretical original position he has posited. The first principle “requires equality in the assignment of basic rights and duties” and the second “holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.” Note, this is not utilitarianism wherein the greatest good for the greatest number is sought; rather, this “intuitive idea is that everyone’s well-being depends upon a scheme of cooperation without which no one could have a satisfactory life, the division of advantages should be such as to draw for the willing cooperation of everyone taking part in it, including those less well situated.” These two principles, argues Rawls “[leave] aside those aspects of the social world that seem arbitrary from a moral point of view.” Indeed, in the original position “it seems reasonable and generally acceptable that no one should be advantaged or disadvantaged by natural fortune or social circumstances in the choice principles” and thus it “seems widely agreed that it should be impossible to tailor principles to the circumstances of one’s own case.”[[11]](#footnote-11)

For the most part, modern capital markets conform to Rawl’s two normative ethical principles. Yet, if this is the case how do we account for the past few years of incredible economic upheaval – much of which can be attributed to failures within capital markets.

It is my contention that at the root of our recent economic difficulties – as they relate to the capital marketplace – is a fundamental violation of managerial fiduciary responsibility at the institutions that form the core of the capital marketplace. Business managers have a duty to firm owners to care for their capital investment in a responsible manner. Yet, if we look at some of activities at key financial institutions relating to credit default swaps, mortgage backed securities, and other similar assets what we find is both traders and managers taking incredible risks; risks which eventually led to the effective dissolution of two of Wall Street’s most prominent investment banks and the failure of countless smaller banks. That these firms were unable to continue operations without access to short-term debt – in the most extreme case a mere 10 days – demonstrates a complete breach of fiduciary responsibility. Unfortunately, this breach had a cascading effect which has negatively impacted the world economy, in some cases to an extent not seen since the Great Depression.

**Recommendations**

 What then, do Christian ethics prescribe for both individuals and communities of faith in our current economic climate? I offer three high-level, yet concrete actions, as to how faith communities and individuals alike can contribute to well-functioning and healthy capital markets.

 First, rather than have an aversion to capital markets, faith communities must learn to embrace and harness the power of the capital marketplace to 1) promote and support their own ecclesiastical and humanitarian activities and 2) influence corporate managers – in finance and elsewhere – to fulfill their fiduciary responsibilities.

 Second, communities of faith must promote general ethics within the marketplace by supporting efforts to create greater transparency. Many of our current economic troubles stem from the fact that it has been difficult – if not impossible – to fully understand the extent the financial crisis because of unnecessary complexity of some financial transactions and the lack of a central clearing house to provide visibility into these transactions. Greater transparency will come as the result of both government actions as well market self-regulation. For too long, Christian communities have been outsiders looking in. Christian communities must be a part of this conversation by becoming participants in the market thus enabling them to act as an important moral voice within markets characterized by the pursuit of self interest.

 Finally, Christian communities must actively promote sound and responsible government fiscal and monetary policy. As Reinhart and Rogoff have demonstrated in their ironically titled book *This Time Its Different*, nothing has contributed more to general economic upheaval, poverty, and market disruption over the past 800 years than the irresponsible use of sovereign debt and monetary policy.[[12]](#footnote-12) Much like communities of faith during the civil rights movement sought to correct social injustices perpetuated by government law and regulation; today’s faith communities must likewise battle poverty and exploitation by promoting sound fiscal and monetary policy. If the governments of modern industrialized nations do not correct course it is not a question of if, but rather when, key elements of economic activity will completely collapse. Such a collapse would have catastrophic impact on both the social and economic well-being of millions.

 Let both individuals and communities of faith, turn from being outside critics of the capital market but full participants able to exert significant moral influence characterized by the normative principles of Christian ethics.

Thank You.

**Appendix**

The basic theory of the social contract is that men, in their purely “natural” state are pitted against one another for control of the resources necessary for sustenance; and that in order to avoid this conflict, and pursue a life beyond continual violence, they form political sovereigns who regulate the affairs of a given community or society. By so doing, these men are entering a social contract with one another wherein they give up certain “rights” and forego certain freedoms in order to enjoy the more ordered life which the polity provides. The ultimate end of the social contract therefore, is the establishment or preservation of some sort of polity which facilitates cooperation between human beings in pursuit of the good. Individual social contract theorists place different restrictions on the sovereign or identify various first principles which the sovereign must observe however; all agree that the sovereign must exist in order for the good life to be pursued.

 Social contract theory should be given primacy in issues of moral and political philosophy. The reasons for this are twofold. First, social contract theory defines an ultimate end[[13]](#footnote-13); namely, the establishment and preservation of a social system wherein men are able to have peaceful association. With this definitive end in mind – albeit within the context of certain fundamental parameters – we are able to make sounds judgment about policy and behavior. Second, this end is one which is completely visible to all members and segments of society. Unlike the ultimate ends defined by religion – which are very much matters of faith and generally non-demonstrable; and the ends defined by sophisticated systems of ethics such as those presented by Kant – which may not be easily understood or widely accepted by all within a society -- the proper function of society is an end in which all within a society may participate in defining and achieving. Each individual regardless of education or background is capable of rendering intuitive judgments about the status of society and their respective placement within it.[[14]](#footnote-14) The social contract allows for (but does not necessarily guarantee) pluralism because of its inherent dynamism.

 This is not to suggest that other systems of ethics should be disregarded. Certainly these systems have their place in grappling with difficult moral questions. However, in regard to questions of political ethics and especially questions of moral policy; social contract theory should be consulted first as a basis for moral judgments.

 The theory of the social contract may have its roots in Greek philosophy. Socrates, Plato, and Aristotle, all utilized the idea of the social contract (although not explicitly) in one form or another. Most recognizably, Plato constructs a theoretical polity throughout *The Republic* in an effort to find the definitive conception of justice. Ultimately, the character Socrates concludes that justice:

 … isn’t concerned with someone’s doing his own externally, but with what is inside him, with what is truly himself and his own. One who is just does not allow any part of himself to do the work of another pat or allow the various classes within him to meddle with each other. He regulates well what is really his own and rules himself. He puts himself in order, is his own friend, and harmonizes the three parts of himself like three limiting notes in a musical scale – high, low, and middle. He binds together those parts and any others there may be in between, and from having been many things he becomes entirely one, moderate and harmonious. Only taking care of his body, engaging in politics, or in private contracts – in all of these, he believes that the action is just and fine that preserves this inner harmony and helps achieve it, and calls it so, and regards as wisdom the knowledge that oversees such actions. And he believes that the action that destroys this harmony is unjust, and calls it so, and regards the belief that oversees it as ignorance.[[15]](#footnote-15)

 In this instance Plato utilizes a theoretical construct to explore the definition of justice. John Rawls adopts a similar method as will be discussed below. In Crito, Plato again recognizes the role of the social contract, albeit in a non-theoretical sense; as Socrates is contemplating a possible escape from prison.[[16]](#footnote-16)

 Aristotle concluded that men form political associations not simply for mere survival, but rather to pursue a “good life.[[17]](#footnote-17) And while he does not describe the formation of polity in terms of a contract, he does explore various types of governments and argues that while certain forms of government are preferable to others, the form of government adopted -- whatever it may be -- must properly align with the virtues, and attributes of the men who form it; else, it will fail.

 As a formal system of ethics and political science, social contract theory was developed by Hobbes in *The Leviathan*. Hobbes viewed uncivilized nature as a state of war which presented continual threats to human life. Thus, the formation of a social contract or covenant between men becomes necessary in order to preserve life. The preservation of life is Hobbes’ primary concern. Therefore, Hobbes argues that once a man has joined a social contract and entered into civil society, he has no right to oppose the sovereign – so long as the sovereign is protecting his life.[[18]](#footnote-18) To Hobbes, no reasonable person would oppose the sovereign once life had been preserved. Thus, in Hobbes’ social contract, the sovereign power is absolute and all considerations of dissent and liberty are essentially non-existent.

 Both Locke and Hume represent the next attempt at theoretical social contract formulation. Both argue for the fundamental right of each individual to own and control property.[[19]](#footnote-19) Implicit in this idea is that men form a social contract which necessitates the existence of a sovereign power. However, this sovereign power is limited by the first principles of property control and ownership.[[20]](#footnote-20) Therefore, when the sovereign power violates these first principles, the people have a right, if not a duty; to rise up against the sovereign in revolution to re-establish a political entity which respects the existent rights of property. It is this so-called “right of revolution” which distinguishes the contracts of Locke and Hume from that of Hobbes.

 Rousseau represents a kind of middle-ground between Locke/Hume and Hobbes. Unlike Locke and Hume, Rousseau’s focus is more on the formation of a cohesive general community rather than on a society of atomized individuals:

 Each of us places his person and all his power in common under the supreme direction of the general will; and as one we receive each member as an indivisible part of the whole.

 At once, in place of the individual person of each contracting party, this act of association produces a moral and collective body composed of as many members as there are voices in the assembly, which receives from this same act its unity, its common self, its life and its will.[[21]](#footnote-21)

 Because Rousseau is more focused on the health and preservation of the whole – the “general will” as it were -- he does allow for what we Locke and Hume might consider violations of individual liberty. For example, Rousseau advocates “censorship [which] maintains mores by preventing opinions from becoming corrupt, by preserving their rectitude through wise applications, and sometimes even by making a determination on them when they are still uncertain.” Further:

 It follows from this that the censorship can be useful for preserving mores, but never for reestablishing them. Establish censors while the laws are vigorous. Once they have lost their vigor, everything is hopeless. Nothing legitimate has any force once the laws no longer have force.[[22]](#footnote-22)

Thus Rousseau has an awareness of individual concerns and liberties, however; he places ultimate priority on the preservation of the general will reflected in the sovereign.

**Rawls Theory of Justice**

For a time, it seems that theories of the social contract were left aside in favor of the consequentialist thinking of Bentham and Mill; and although consequentialist thinking has its obvious advantages – especially in the work of Sidgewick – ultimately it fails to provide a comprehensive view of justice. Enter John Rawls.

John Rawls *Theory of Justice* should be considered the culmination and pinnacle of social contract theory. It represents a complete model not only for defining a conception of justice, but also illustrates in a largely practical sense how justice may be implemented within the body politic. The completeness of Rawls work and the rigor of his arguments cannot be overstated.

 For Rawls, “justice is the first virtue of social institutions as truth is of systems of thought.”[[23]](#footnote-23) In the construction of his theory of justice, Rawls is refreshingly pragmatic and states “a theory however elegant and economical must be rejected or revised if it is untrue.” In other words, Rawls is concerned not with an elegant model for its own sake, but rather is concerned with discerning a theory of justice which is sound but more importantly: true. Similarly, “laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.” In this, Rawls rejects utilitarian conceptions of the good as “each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override” and thus, “for this reason justice denies that the loss of freedom for some is made right by the greater good shared by others.” This idea, that within a social contract the foci of justice must be on the individual and not on the society as a whole, is a radical departure from theorists such as Rouseau, Locke, and especially Hobbes. This is not to suggest that these social contract theorists had no concern for the individual but rather, that their conceptions began at the macro level and worked inward whereas Rawls begins at the micro level and moves outward.

 According to Rawls, “a society is well-ordered when it is not only designed to advance the good of its members but when it is also effectively regulated by a public conception of justice … that is, it is a society in which (1) everyone accepts and knows that the others accept the same principles of justice, and (2) the basic social institutions generally satisfy and are generally known to satisfy these principles.”[[24]](#footnote-24) In this way, “one may think of a public conception of justice as constituting the fundamental charter of a well-ordered human association.”

 Rawls does acknowledge however, that “existing societies are of course seldom well-ordered in this sense, for what is just and unjust is usually in dispute… yet we may still say, despite this disagreement, that [modern societies and the men and within them] each have a conception of justice.” Members of society “understand the need for, and they are prepared to affirm, a characteristic set of principles for assigning basic rights and duties and for determining what they take to be the proper distribution of the benefits and burdens of social cooperation.”[[25]](#footnote-25) An “agreement in conceptions of justice is, however, not the only prerequisite for a viable human community.” In addition to a conception of justice, “the scheme of social cooperation must be stable: it must be more or less regularly complied with and its basic rules willingly acted upon; and when infractions occur, stabilizing forces should exist that prevent further violations and tend to restore the arrangement.” While Rawls does acknowledge the various conceptions of justice which exist within society, “it is still true that, other things equal, one conception of justice is preferable to another when its broader consequences are more desirable.” Again, this is a reflection of Rawl’s ultimate pragmatism.

 For Rawls “the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.” Thus, “taken together as one scheme, the major institutions define men’s rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do.” In this, there is a slight paradox. Social justice requires political institutions and social structure, yet is these very institutions and structure which can in fact, mete out severe injustice. Certainly “the institutions of society favor certain starting places over others [which represent] deep inequalities.” These inequalities are “[not only] pervasive, but they affect men’s initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert.” Furthermore, “it is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice must in the first instance apply” and “the justice of a social scheme depends essentially on how fundamental rights and duties are assigned an on the economic opportunities and social conditions in the various sectors of society.”[[26]](#footnote-26) Rawls observers that “the various conceptions of justice are the outgrowth of different notions of society against the background of opposing views of the natural necessities and opportunities of human life” and thus “to understand a conception of justice we must make explicit the conception of social cooperation from which it derives.”

 Rawls calls in to question the presuppositions of individual entitlement and character which define so much of the classical pursuit of justice – especially Aristotle. Rawls argues that social roles, and these various other presuppositions are “very often derived from social institutions and the legitimate expectations to which they give rise.” Thus, Rawls’ theory of justice asks us to conceptually think *a priori* about the establishment of social roles and adopt what he labels the principle of “justice as fairness.” Unlike other social contract theorists, Rawls is not attempting to reason from an initial “state of nature” to find the best form or government or to define the terms of the social contract. Rather, Rawls is utilizing social contract theory and the concept of a theoretical “original position” to define justice and its proper role within the bounds of society.

 My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant. In order to do this we are not to think of the original contract as one to enter a particular society or to set up a particular form of government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice I shall call justice as fairness.[[27]](#footnote-27)

 This theoretical model allows us to “imagine that those who engage in social cooperation choose together; in one joint act, the principles where are to assign basic rights and duties and to determine the division of social benefits.” In addition, they “are to decide in advance how they are to regulate their claims against one another and what is to be the foundation charter of their society.”

 In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. This original position is not, of course, thought of as an actual historical state of affairs, much less a primitive condition of culture. It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice. Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantages in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. For given the circumstances of the original position, the symmetry of everyone’s relations to each other, this initial situation is fair between individuals as moral persons, that is, as rational beings with their own ends and capable, I shall assume, of a sense of justice. The original position is, one might say, the appropriate initial status quo, and thus the fundamental agreements reached in it are fair. This explains the propriety of the name “justice as fairness”: it conveys the idea that the principles of justice are agreed to in an initial situation that is fair. The name does not mean that the concepts of justice and fairness are the same, any more than the phrase “poetry as metaphor” means that the concepts of poetry and metaphor are the same.[[28]](#footnote-28)

 Rawls rejects the notion of utilitarian calculus as a means of determining a just state of affairs because “in the absence of strong and lasting benevolent impulses, a rational man would not accept a basic structure merely because it maximized the algebraic sum of advantages irrespective of its permanent effects on his own basic rights and interests.” Further, “it seems that the principle of utility is incompatible with the conception of social cooperation among equals for mutual advantage.”[[29]](#footnote-29) Yet, despite all of this Rawls does conceive of times where the “principle of utility would be acknowledged.”[[30]](#footnote-30)

 Rawls contends that two basic principles would come for the theoretical original position he has posited. The first principle “requires equality in the assignment of basic rights and duties” and the second “holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.” Note, this is not utilitarianism wherein the greatest good for the greatest number is sought; rather, this “intuitive idea is that everyone’s well-being depends upon a scheme of cooperation without which no one could have a satisfactory life, the division of advantages should be such as to draw for the willing cooperation of everyone taking part in it, including those less well situated.” These two principles, argues Rawls “[leave] aside those aspects of the social world that seem arbitrary from a moral point of view.” Indeed, in the original position “it seems reasonable and generally acceptable that no one should be advantaged or disadvantaged by natural fortune or social circumstances in the choice principles” and thus it “seems widely agreed that it should be impossible to tailor principles to the circumstances of one’s own case.”[[31]](#footnote-31)

 Undoubtedly, Rawls’ presentation of this “original position” and the resulting two main principles has brought us to a point in moral philosophy where we can confidently and perhaps definitively argue the justice or injustice of any particular act, policy, or polity. I maintain that Rawls has successfully presented, unlike any of his philosophical predecessors, a theoretical conception of justice which is not only reasonable, but also intuitive. Rawl’s conception relies on no necessary “givens” or first principles.[[32]](#footnote-32) The original position, as it were, is a means of deriving first principles. Rawls does not rely on social norms or various conceptions of the good to provide authority and finality to his conception of justice. Certainly, societal norms and conceptions of the good play a significant role in the Rawlsian conception; however, they do so after-the-fact; once justice itself has been defined and agreed upon. The Rawlsian conception of justice within the framework of social contract, unlike the contracts of Locke, Rouseau, and Hobbes, is unencumbered from the arbitrary and seemingly free from bias. Again, I maintain that Rawls has presented the definitive framework for defining justice; one which allows us to effectively reason what is, and what is not just.

 Rawls’ later work in *Political Liberalism* is an attempt to bring this theoretical framework into the process of defining a holistic social contract based on the principles of justice previously defined.[[33]](#footnote-33) The particulars of Rawls implementation are not relevant here.

**Rawls Has it Right**

 I believe that John Rawls has effectively created a framework – which surpasses all previous frameworks and definitions -- for us to use in the determination of what is just and unjust. Rawls effectively employs reason and an intuitive sense of fairness to establish his conception of justice. Additionally, Rawls’ intuitive sense is supported by biological and sociological science as many studies have shown that animals have an inherent sense of fairness and react quite negatively when they perceive an unfair distribution of resources or reward.[[34]](#footnote-34) Likewise, we as human beings have an intuitive sense of fairness and equity which Rawls model allows us to harness, along with reason to make distinct and just moral judgments.

**Practical Issues of Justice**

 A key concept in Rawls’ theory of justice is that *rational* human beings make judgments and determinations in the original position which ultimately define what distribution of resources or particular political institutions are just and fair. In a purely theoretical sense, this model is extremely useful and allows us to at very least argue about the justice of a particular act or policy from a common vantage point. Yet, even if we define the theoretical justice or injustice of a particular act, policy, or set of conditions; how does this theoretical justice play out in real-world circumstances where human beings are commonly irrational?

 The appeal to strict rationality is one of the difficulties not only in Rawls’, but also all other moral philosophers’ models which appeal to strict reason. The focus on reason only without consideration for the psychological, emotional, and sociological responses of human beings within society creates barriers in transforming theoretical justice into practical policy.

 One possible for reason for this rational-only focus is that western philosophical thought has typically been centered on the self with considerations of the other being only ancillary. Thomas Ogletree describes the development of such morality as “but the shrewd management of life’s exigencies in light of [one’s] more or less arbitrary personal preferences” and that “whether it be refined and subtle and sophisticated, or careless and thoughtless and unreflective such morality finally boils down to egoism, the assessment and utilization of all aspects of the world in terms of [one’s own] purposes.”[[35]](#footnote-35) Ogletree argues against “this dominant tendency of ethical thought” and seeks to “highlight the originality of the self-other interaction, more particularly the ‘other’s’ appeal in that interaction, for constituting the meaning of morality.” Further:

 The dominant tendency in Western ethics has been to accent the self-constitution of ego, the moral actor, in establishing the possibilities for criticism and innovation in moral experience. The “other” takes on significance largely because of the essential role he or she plays in the process. The moral interests of the other are not overlooked. Yet they derive their force primarily from the moral actor’s own identification with the other and his projection of his own sense of moral worth on the other.[[36]](#footnote-36)

 For Ogletree, the inherent egoism in western ethics is unsatisfactory as it does not allow for a full and complete moral understanding. He argues that “an essential condition for the realization and maintenance of my being a person is that I enter into relationships with other persons” and “thus, the dynamics of my own personhood bind me to an unconditional obligation to act with full regard for the personhood of the other selves whom I encounter.”[[37]](#footnote-37) Indeed, “morality begins precisely when my egoism has been called into question and I learn to take the other into account.”[[38]](#footnote-38) Thus, “if conscience as a sense of justice and regard for the other is to emerge, it must do so through the overcoming of the self-interestedness of the ‘for itself’.”This of course means that “the moral encounter, far from being the occasion for my self-integration, involves, therefore, an unsettling decentering of my being, opening me to plurality, indeed to infinity in the self-transcending presence of the other.”

 The “other” is a complex tapestry which includes both rational and irrational beings; both healthy and unhealthy; both educated and uneducated. The tendency toward reason-only centered conceptions of justice is problematic because it may lead us to project on others a rational view which they may not accept, understand or view as just. For those who consider themselves rational to “read and interpret others solely in terms of our own worlds of meaning and value is to do them violence, to objectify them, to reduce them to sameness with everything else.”[[39]](#footnote-39)

I propose that we adopt a more complete and perhaps practical view of justice by segmenting our conceptions into *theoretical justice* and *perceived justice*. Rawls has provided us with what should be considered the definitive theoretical conception of justice. However, in matters of moral policy, we must give equal – if not greater – consideration to questions of perceived justice; especially in light of the health and vitality of the existent social contract.

Suppose for example that we identify and implement a public policy (whatever it may be) which conforms exactly to both the equality principle and the liberty principle as proposed by Rawls. Both the policy itself and the implementation thereof are theoretically just. This policy impacts a wide variety of society members and most recognize it as being both just and beneficial. However, there is a small group of individuals who also benefit from this policy but recognize neither its benefit to them nor its justice and in fact, perceive the policy as an act of injustice. In reality, this small group is “better off” and is being dealt with justly (theoretically) but, based on their cultural, environmental, emotional, and other circumstances they believe that they are the victims of injustice.

In such a case, what is the moral policy and course of action? Should we persist in a policy which we rational understand is both just and beneficial even though some of those whom the policy impacts perceive it as unhelpful and unjust? Perhaps it would be helpful to consider a historical example.

Otto von Bismarck is well known for his efforts and success in unifying a much dived Germany. One major obstacle to unification was the consistent encroachment of communism and its appeal to lower-class workers. For many years, Bismarck and the conservative German government opposed socialism in all its many forms believing that it would hamper and cripple the booming German economy. They argued that social programs and wide-spread worker rights would only serve to lower wages (in the aggregate), reduce employment, and cut productivity – consequences which would impact lower class German workers the most.[[40]](#footnote-40) Yet, despite the negative impact such programs would have (again in the aggregate) the failure to implement aspects of the socialist agenda caused extreme frustration in the German working class. Thus, as time went on, communism and extreme socialist policy became attractive to German workers. Eventually, Bismarck – realizing that worker sympathy for communism and extreme forms of socialism proved a serious threat to German unification – introduced the world’s first social security program to German workers in order to neutralize the appeal of other, more radical ideologies.[[41]](#footnote-41) Such a mandatory program, and other socialist-like policies did in fact “harm” German workers in a certain economic sense by suppressing savings and increasing unemployment. However, these workers perceived a more just state of affairs and thus felt less compelled to pursue more radical approaches.[[42]](#footnote-42)

 Remember, I give primacy to the establishment of the social contract as a measure of political justice. Worker disenfranchisement and the appeal of communism and radical forms of socialism represented a significant threat to the health and continuity of the German state and, as history has illustrated, these radical ideologies often produced unquestionable states of injustice once implemented. Thus, even if we make the radical assume that German workers would have been categorically better off without the implementation of Bismarck’s social programs, we must acknowledge the wisdom of their implementation even if their *only benefit was to create cohesion within the social contract* and preserve a society which was better off as a whole.

 A just policy must be effective but it may have to sacrifice some of its effectiveness in order to serve the needs of the social contract by appealing to the perceptions, emotions, and conditions of those whom it effects. I am not suggesting here that feelings, emotions and perceptions are all that matter. Certainly, a factory owner who is forced to pay unemployment insurance can claim that he is experiencing an injustice. Thus, we cannot make such judgments on perception alone. Rather, as I have stated above, we must adopt a holistic approach which gives theoretical justice, perceived justice, and ultimate policy effectiveness due consideration. At various times and under different circumstances each of these three considerations must be given different weight and importance. Conceivably, there will be times when it is necessary to implement a completely ineffective policy to pacify perceptions some within society until such a point when an effective policy can be found to meet the need for both effectiveness and the perception of justice.[[43]](#footnote-43)

**Sunstein, Paternalism, and Preferences**

In *Free Markets and Social Justice*, Cass Sunstein highlights further problems with a general assumption of rational and free choice.[[44]](#footnote-44) He argues that “modern government has no concern with souls” and that “people are taken as they are, not as they might be.”[[45]](#footnote-45) Further, “self-interest, not virtue, is understood to be the usual motivating force of political behavior.” As such, “the goal of the polity is quite modest: the creation of the basic ground rules under which people can satisfy their desires and go about their private affairs” and that “respect for private preferences, rather than the collective deliberation about public values or the good life, does seem to be the distinguishing feature of American constitutionalism.”[[46]](#footnote-46)

 Sunstein calls into question this notion of private preferences and argues:

… choices are a function of prevailing social norms and hence of context, which can activate particular norms. If you are a certain group you may well choose a drink of Perrier over a Coca-Cola, or vice-versa, because of local practices. You may purchase an American car, or not, because of existing norms in your community. For this reason, a choice of one good over another may tell us very little about further choices unless we know about the motivations and context of the choice.[[47]](#footnote-47)

 Sunstein maintains that under such conditions the notion of autonomy is really an illusion as “many preferences are a result of social norms and conditions that make them far from autonomous.” He further argues that “the notion of autonomy should refer instead to decisions reached with a full and vivid awareness of available opportunities, with reference to relevant information, and without illegitimate or excessive constraints on the process of preference formations.”[[48]](#footnote-48) Consequently, “governmental interference with existing choices or desires may be justified because of the problems in the origins of those desires.” Democracy then “is to ensure autonomy not merely in the satisfaction of preferences, but also, and more fundamentally, the process of preference formation.”[[49]](#footnote-49) In a free society, “people should not face unjustifiable constraints on the free development of their preferences and beliefs.” Sunstein finds himself very much in agreement with John Stuart Mill who argued that it is better to be Socrates dissatisfied than a fool satisfied.

I fundamentally reject Sunstein’s position. Sunstein is correct to point out that human beings make irrational choices and are very much influenced by what he calls “context.” However, to suggest or merely imply that preferences formed “with a full and vivid awareness of available opportunities” are the only valid or legitimate or morally binding choices is absurd. Who, among even the most intelligent, educated, and privileged human beings can make a choice or form preferences with such an awareness? Are we to disregard the preferences of the young because they lack the wisdom and experience of the elderly? Are preferences formed at Yale or Harvard more valid than those formed at a technical vocational school? Is my preference for philosophy and ethical thought more important than another’s preference for the WWF or Monday Night Football? No. Each person’s preferences, and in particular how those particular preferences impact the emotions, well-being, and perceptions of individuals have value in themselves. Pleasure, happiness or contentment cannot be measured by a scale outside oneself. Thus, it is unjust first to assume that we know what is “best” for another person and second, to attempt the implementation of our faulty assumptions.

Sunstein, along with Mill, Socrates and many others, offer a dangerous paternalism which devalues the choices, preferences, and experiences of all human beings. As mentioned above, Mill dogmatically claims that Socrates dissatisfied is better than a fool satisfied; but to whom? A fool who is *free to be a fool* and pursue those things which create contentment within him or herself is equal to Socrates in a state of contentment. While the circumstances and “context” of the fool and Socrates may vary greatly, each has the ability to pursue conditions which lead to an internal contentment. It is this internal contentment which has value in itself.

Let us consider a less extreme example and one which has implications for contemporary society. A liberal protestant Christian who has been exposed to advanced forms of biblical criticism and who has adopted a non-literal form of faith may have contempt for his or her evangelical counterpart who maintains a more literal view of the Bible. Such a person may view literal faith as juvenile, unsophisticated, and without true meaningful value. Yet, if that literal faith creates within its adherent a sense of contentment and well-being is it any less valuable than a more sophisticated and liberal faith? No.

Of course, we see conflict when individual conceptions of contentment and the pursuit of happiness, as it were, oppose and challenge one another. The true brilliance of the social contracts as presented by Locke, Hume, and Rawls is that they each sustain and promote the value of the individual and the sovereign exercise of their faculties.[[50]](#footnote-50) In a functioning social contract, such differences and conflicts can be discussed and negotiated as the particular terms of the contract and the means necessary to facilitate societal conflict ebb and flow over time.[[51]](#footnote-51)

I do not wish to completely discard Sunstein’s observations as he is absolutely correct in his contention that context is a necessary component to any discussion of just policy. However, we must not adopt Sunstein’s form of paternalism and assume that we know what is “best” for others. Rawls is correct in arguing for “equality of opportunity” and not equality itself. Human beings must be allowed the autonomy to pursue their own individual conceptions of the good and find contentment and happiness therein. In fact, one characteristic of just policy may be that it allows for maximum human autonomy within the context of the greater social sphere.

Thus to summarize: We must be concerned not only with individual perceptions of justice but also with the actual circumstances and the context which create these perceptions. Just policy seeks to educate and enable the autonomy and sovereignty of individuals. However, such efforts to educate and enable must not become paternalistic because by so doing, they may create or perpetuate perceptions of injustice – thus invalidating and eradicating any progress which said paternalism may have originally hoped to achieve. Of course, these are not principles which can be argued with absolute certitude and my hope is that these distinctions will not be viewed as a dichotomy or as a choice of either/or. Rather, what I have presented here represents a continuum of choices which must be considered part of a holistic approach to public policy.

**Summary of the Position**

 Thus far I have argued several key points and feel it is necessary to summarize and systematize my argument before proceeding to a specific discussion of health care. First, I have argued for the primacy of social contract theory and maintain that in matters of public policy, the perpetuity of a healthy social contract should be considered an ultimate end. Yet, not just any social contract will do. Only a social contract informed indirectly by the property conceptions of Locke and Hume, and directly by the justice as fairness of Rawls will produce conditions wherein we can make judgments of what I have called *theoretical* justice. In addition, I have argued that conceptions of theoretical justice are of little value if we give no weight to issues of *perceived* justice and how specific conditions within the social contract are viewed by disparate members of society. Lastly, we must also consider both the effectiveness and unintended consequences of any given policy in order to evaluate its justice. Taken together, I believe these basic principles form a holistic evaluative approach to public policy free from the specter of radical ideologies and political dogmatism.

 I now offer some basic questions which should be asked (in one form or another) when pondering the justice or injustice of a given policy or proposal. These questions are offered as guideposts and indicators and are not meant to serve as a type of moral checklist. Such a checklist approach would run counter to the holistic analysis I have argued for above.

1. What is the state of the social contract? Is the contract itself sufficient to provide an environment where justice is possible?
2. Is the policy theoretically just? Is the policy fundamentally fair? Does it meet the two conditions set forth by Rawls?
	1. Does the policy provide for or conform with the principle of equality of liberty and opportunity?
	2. Does the policy create, support or perpetuate an inequality of wealth or power? If so, does this inequality lead to a benefit for all within the contract? What is the nature of this benefit? How do the least-advantaged benefit from this policy?
3. How will the justice of this policy be perceived by societal segments and individuals within the contract?
4. Will this policy be effective? What may be some of the unintended consequences? How will both the effectiveness and unintended consequences of this policy impact individual perceptions of justice?

I believe the above questions can guide and inform an analysis of public policy in such a way as to lead to policies which are fundamentally just, fair, and effective.

Aristotle. *Politics*.

*Creating Modern Capitalism: How Entrepreneurs, Companies, and Countries Triumphed in Three Industrial Revolutions*. Edited by Thomas K. McCraw. Cambridge MA and London: Harvard University Press, 1997.

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1. The immediate impact of capitalism on human life and interaction is perhaps best stated by Thomas McCraw:

For most of human history until about the seventeenth century, economic stagnation seemed to be the natural order of things all over the world. People at every social level took it for granted and arranged their lives accordingly. They gave little thought to what later generations called “economic and social mobility.” The idea of an “industrial revolution” or a “consumer economy” would have seemed incomprehensible to them. In Europe during the thousand years before 1700, per capita income grew at the miniscule rate of about 0.11 percent per year, or just over a tenth of a percent. There is no real substantial reason to think that the rate was much more or less than that in most other parts of the world.

In many countries the coming of industrialization and the creation of modern capitalism ended this long economic stagnation and transformed the mind-set that went with it. As Karl Marx and Friedrich Engels wrote in 1848, a scant hundred years of capitalism had already “created more massive and more colossal productive forces than have all preceding generations together.” And even as they wrote, the forces of capitalism were just beginning to gather steam. At the old annual growth rate of 0.11 percent, per capita income had doubled about every 630 years. But between 1820 and 1990, a period of only 170 years, it multiplied by a factor of about 10 in Great Britain, 15 in Germany, 18 in the United States, and 25 in Japan. The capitalist era, especially the period since 1820, has been unique in human history, a time of spectacular economic growth. *Creating Modern Capitalism: How Entrepreneurs, Companies, and Countries Triumphed in Three Industrial Revolutions*, ed. Thomas K. McCraw (Cambridge MA and London: Harvard University Press, 1997).*Creating Modern Capitalism: How Entrepreneurs, Companies, and Countries Triumphed in Three Industrial Revolutions*, ed. Thomas K. McCraw (Cambridge MA and London: Harvard University Press, 1997 [↑](#footnote-ref-1)
2. Matthew 22:34–40 (NRSV)

34 When the Pharisees heard that he had silenced the Sadducees, they gathered together, 35 and one of them, a lawyer, asked him a question to test him. 36 “Teacher, which commandment in the law is the greatest?” 37 He said to him, “ ‘You shall love the Lord your God with all your heart, and with all your soul, and with all your mind.’ 38 This is the greatest and first commandment. 39 And a second is like it: ‘You shall love your neighbor as yourself.’ 40 On these two commandments hang all the law and the prophets.” [↑](#footnote-ref-2)
3. John 15:12–17 (NRSV)

12 “This is my commandment, that you love one another as I have loved you. 13 No one has greater love than this, to lay down one’s life for one’s friends. 14 You are my friends if you do what I command you. 15 I do not call you servants any longer, because the servant does not know what the master is doing; but I have called you friends, because I have made known to you everything that I have heard from my Father. 16 You did not choose me but I chose you. And I appointed you to go and bear fruit, fruit that will last, so that the Father will give you whatever you ask him in my name. 17 I am giving you these commands so that you may love one another. [↑](#footnote-ref-3)
4. Thomas W. Ogletree, *Hospitality to the Stranger: Dimensions of Moral Understanding* (Philadelphia: Fortress Press, 1985). [↑](#footnote-ref-4)
5. Matthew 19:20–22 (NRSV)

20 The young man said to him, “I have kept all these; what do I still lack?” 21 Jesus said to him, “If you wish to be perfect, go, sell your possessions, and give the money to the poor, and you will have treasure in heaven; then come, follow me.” 22 When the young man heard this word, he went away grieving, for he had many possessions. [↑](#footnote-ref-5)
6. Matthew 25:14–30 (NRSV)

14 “For it is as if a man, going on a journey, summoned his slaves and entrusted his property to them; 15 to one he gave five talents, to another two, to another one, to each according to his ability. Then he went away. 16 The one who had received the five talents went off at once and traded with them, and made five more talents. 17 In the same way, the one who had the two talents made two more talents. 18 But the one who had received the one talent went off and dug a hole in the ground and hid his master’s money. 19 After a long time the master of those slaves came and settled accounts with them. 20 Then the one who had received the five talents came forward, bringing five more talents, saying, ‘Master, you handed over to me five talents; see, I have made five more talents.’ 21 His master said to him, ‘Well done, good and trustworthy slave; you have been trustworthy in a few things, I will put you in charge of many things; enter into the joy of your master.’ 22 And the one with the two talents also came forward, saying, ‘Master, you handed over to me two talents; see, I have made two more talents.’ 23 His master said to him, ‘Well done, good and trustworthy slave; you have been trustworthy in a few things, I will put you in charge of many things; enter into the joy of your master.’ 24 Then the one who had received the one talent also came forward, saying, ‘Master, I knew that you were a harsh man, reaping where you did not sow, and gathering where you did not scatter seed; 25 so I was afraid, and I went and hid your talent in the ground. Here you have what is yours.’ 26 But his master replied, ‘You wicked and lazy slave! You knew, did you, that I reap where I did not sow, and gather where I did not scatter? 27 Then you ought to have invested my money with the bankers, and on my return I would have received what was my own with interest. 28 So take the talent from him, and give it to the one with the ten talents. 29 For to all those who have, more will be given, and they will have an abundance; but from those who have nothing, even what they have will be taken away. 30 As for this worthless slave, throw him into the outer darkness, where there will be weeping and gnashing of teeth.’ [↑](#footnote-ref-6)
7. Thomas McGraw further explains:

The term “capital” first appeared in its modern sense in about 1630. *The Oxford English Dictionary* gives a succinct definition: “accumulated wealth reproductively employed.” Throughout history, human beings had quickly consumed almost all of what they produced. Sometimes they accumulated a little wealth, but they customarily spent it on displays that weren’t very useful in improving common people’s living standards. The pyramids of Egypt represented an enormous amount of accumulated wealth, but it was devoted to the afterlife of pharaohs. It produced a good deal of employment, but not with the continuing developmental effect that would have come if the same money had been spent on roads and canals. *Creating Modern Capitalism: How Entrepreneurs, Companies, and Countries Triumphed in Three Industrial Revolutions*. [↑](#footnote-ref-7)
8. Edwin R. Micewski and Carmelita Troy, "Business Ethics - Deontologically Revisited," *Journal of Business Ethics* 72(2006).pp. 18 [↑](#footnote-ref-8)
9. John Hendry, "After Durkheim: An Agenda for the Sociology of Business Ethics," *Journal of Business Ethics* 34, no. 3 (2001).pp. 211 [↑](#footnote-ref-9)
10. See Appendix [↑](#footnote-ref-10)
11. John Rawls, *A Theory of Justice, Revised Edition* (Cambridge: Balknap Press of Harvard University Press, 1999), 16. [↑](#footnote-ref-11)
12. Carmen M Reinhart and Kenneth S. Rogoff, *This Time is Different: Eight Centuries of Financial Folly* (Princeton and Oxford: Princeton University Press, 2009). [↑](#footnote-ref-12)
13. In previous essays I have systems of ethics which define such ends as “Primary Ethics.” [↑](#footnote-ref-13)
14. Of course, various iterations of the social contract place certain limitations on how and when this intuition is expressed. The justice and injustice of such limitations will be discussed below. [↑](#footnote-ref-14)
15. Plato, *The Republic*, Book IV 443 c-e. [↑](#footnote-ref-15)
16. ———, *Crito*, 51c - 53a. [↑](#footnote-ref-16)
17. Aristotle, *Politics*, Book I [↑](#footnote-ref-17)
18. Thomas Hobbes, "Leviathan," in *Modern Political Thought: Readings from Machiavelli to Nietzsche*, ed. David Wooton (Indianapolis, Cambridge: Hackett Publishing Company, 1996), Chapter 18 pg 191. [↑](#footnote-ref-18)
19. In this sense, both mean the product of one’s own hands and labor and not simply real estate. [↑](#footnote-ref-19)
20. John Locke, *Second Treatise of Government*, ed. C.B. Macpherson (Indianapolis,Cambridge: Hackett Publishing Company, 1980). And David Hume, "Of the Original Contract," in *Modern Political Thought: Readings from Machiavelli to Nietzsche*, ed. David Wooton (Indianapolis, Cambridge: Hacket Publishing Company, 1996). [↑](#footnote-ref-20)
21. Jean-Jacques Rousseau, "On the Social Contract," in *Modern Political Thought: Readings from Machiavelli to Nietzsche* (Indianapolis, Cambridge: Hackett Publishing Company, 1996), 470-71. [↑](#footnote-ref-21)
22. Ibid., 527. [↑](#footnote-ref-22)
23. Rawls, *A Theory of Justice, Revised Edition*: 3. [↑](#footnote-ref-23)
24. Ibid., 4. [↑](#footnote-ref-24)
25. Ibid., 5. [↑](#footnote-ref-25)
26. Ibid., 7. [↑](#footnote-ref-26)
27. Ibid., 10. [↑](#footnote-ref-27)
28. Ibid., 11. [↑](#footnote-ref-28)
29. Here it seems Rawls is arguing against the strict utilitarianism of Bentham and Mill. The utilitarian calculus of Sidgwick and Sen are far more nuanced than Rawls acknowledges here. [↑](#footnote-ref-29)
30. Rawls, *A Theory of Justice, Revised Edition*: 13. [↑](#footnote-ref-30)
31. Ibid., 16. [↑](#footnote-ref-31)
32. In many respects, this is the fatal flaw of Bentham’s utilitarianism. Bentham argues that the principle of utility is so “self-evident” that it requires no argument to establish its usefulness, let alone its existence. [↑](#footnote-ref-32)
33. John Rawls, *Political Liberalism* (New York, Chichester, West Sussex: Columbia University Press, 1993). [↑](#footnote-ref-33)
34. Mark D. Hauser, *Moral Minds, How Nature Designed our Universal Sense of Right and Wrong* (New York Harper Collins, 2006), 393. [↑](#footnote-ref-34)
35. Ogletree, *Hospitality to the Stranger: Dimensions of Moral Understanding*: 35. [↑](#footnote-ref-35)
36. Ibid., 39. [↑](#footnote-ref-36)
37. Ibid., 40. [↑](#footnote-ref-37)
38. Ibid., 45. [↑](#footnote-ref-38)
39. Ibid., 48. [↑](#footnote-ref-39)
40. The merits of such arguments could be discussed at length. However, for purposes of this paper, I assume that in general, social programs, wage fixing, and unionization do tend to slow economic growth. However, as will be discussed, such programs have worth outside of purely economic concerns. [↑](#footnote-ref-40)
41. John P. McKay, John Bucker, and Bennett D. Hill, *A History of World Societies* (Houghton Mifflin, 1996). [↑](#footnote-ref-41)
42. This historical example highlights a problem with Rawl’s conception of theoretical justice. One the one hand, we can argue that the conservative German politicians were correct in maintaining that the inequity between owners and workers was justified because the least within society – the worker – was receiving a benefit. However, we can also argue for the workers who were in many respects being exploited at the expense of their health and long-term quality of their lives. For our purposes here, I am less concerned with the merits of this particular policy and simply want to point out that these workers may (or may not) have been in a more just situation before the implementation of social security. However, what is important is that they perceived themselves as beings victims of injustice until Bismarck established policies that ultimately changed their perceptions. [↑](#footnote-ref-42)
43. As a fiscal conservative I am appalled at the ineffectiveness of many government programs either due to their poor design or the unintended consequences they produce – especially in the area of education. However, I also recognize the importance some of these programs have on members of society who feel oppressed and disenfranchised. Thus, such policies may be necessary and just measures until such time as circumstances warrant change. [↑](#footnote-ref-43)
44. Cass R. Sunstein, *Free Markets and Social Justice* (New York, Oxford: Oxford University Press, 1997). [↑](#footnote-ref-44)
45. Ibid., 13. [↑](#footnote-ref-45)
46. Ibid., 14. [↑](#footnote-ref-46)
47. Ibid., 16. [↑](#footnote-ref-47)
48. Ibid., 19. [↑](#footnote-ref-48)
49. Ibid., 20. [↑](#footnote-ref-49)
50. Rawls, in his later work argues along similar lines as Sunstein and in this I believe he oversteps. However, the principles of equality of opportunity and difference in justice as fairness seem to me to inherently support this notion of individual autonomy. [↑](#footnote-ref-50)
51. The true danger to a social contract is the breakdown of what one writer has termed a “full and free discourse.” See: Franklin I. Gamwell, *Politics as a Christian Vocation* (Cambridge: Cambridge University Press, 2005). Also: Robert Wuthnow, *Christianity and Civil Society* (Valley Forge: Trinity Press, 1996). [↑](#footnote-ref-51)