



**October 5th, from 4-7 pm
Lester Pollock Room, FH, 9th Floor**

Colloquium in Legal, Political, and Social Philosophy

Conducted by

Jeremy Waldron and Liam Murphy

Speaker: Gina Schouten, Harvard University

Paper: Liberalism, Culture, And The Subject Matter Of Justice



Colloquium Website: <http://www.law.nyu.edu/node/22315>

Note to Colloquium participants:

Gina Schouten has given us for discussion a chapter (Ch. 6) of a new book she is working on. She also suggests we have a look at the first seven or so pages of the book's Introduction, also included here.

CHAPTER 6: LIBERALISM, CULTURE, AND THE SUBJECT MATTER OF JUSTICE

“Liberal feminism” has at times been treated as something of an oxymoron. Here’s Anne Phillips describing a particular stage in the development of feminist thought:

Feminism re-emerged in the 1960s and 70s in a period when liberalism was shorthand for everything stodgy, unambitious, and dishonest: a glorification of rights and freedoms that paid scant attention to the inequalities of income and power; a discourse of complacency designed to keep things as they are. In that moment in history, to be radical was almost by definition not to be liberal: witness the familiar taxonomy from the 1970s that divided feminisms into their liberal, socialist, and radical varieties, and rather patronized the liberal sort.¹

More recently, the most influential variants of liberalism have been *non-complacent*, at least insofar as they have been *principally* concerned with inequalities of income and power. Feminist and egalitarian liberals argue that, properly understood, liberal values underpin a deep critique not only of sexism but of racism and economic inequality as well. Beyond critique, these liberals draw from liberalism an egalitarian vision for a more just social arrangement and normative insights about how to get there from here. To take one prominent example, Martha Nussbaum emphasizes the critical and normative potency of liberalism: “In a world governed by hierarchies of power and fashion, this is still, as it was from the first, a radical vision, a vision that can and should lead to social revolution.”² I agree with Nussbaum that properly understood,

¹ Phillips 2001.

² Nussbaum 1999, 79–80.

liberalism's vision is radical. And I find feminist, left-liberal defenses of liberalism to be largely satisfying. But to my mind, some feminist concerns about liberalism have not yet fully been answered. This chapter takes up one such concern: that liberalism is inadequate because of its focus on the state and its political institutions as the primary subject of justice theorizing.

The concern is difficult to adjudicate for several reasons. For one thing, feminist critics of liberalism are not always clear about what kinds of entities they think normative political theory needs to judge, and on what terms, in order for that theory to be adequate. Nor are they always clear about what commitments of liberalism they think exclude the judgments in question. Meanwhile, liberals disagree among themselves about the so-called “primary subject of justice”;³ and they disagree about the practical significance of any particular inclusion or exclusion. If liberal justice cares about the design of political institutions, for example, then liberal theorists seemingly *must* care about social norms, because norms influence political participation and—in a liberal democracy—political participation influences the shape and behavior of political institutions. Conversely, political institutions affect social norms, patterns of individual behavior, and even the preferences we come to develop. In what sense, then, would it even be *possible* to restrict the subject matter of justice to the state and political institutions?

This chapter aims to provide some clarity. The clarity gained shows state-oriented liberalism to be more plausible than critics take it to be, because it shows that a focus on the state is motivated and consistent with a demandingly feminist and demandingly egalitarian liberalism. I draw on the anatomy of justice to make my case. To foreshadow: State-oriented liberalism can do more critical and normative work than its critics give it credit for because it must care about a wide range of social entities even if it conceptualizes justice so that, strictly speaking, only arrangements of political institutions can be unjust. I don't argue that we should all be

³ Rawls 1999, 6.

state-oriented liberals. Rather, I defend state-oriented liberalism against the criticisms on offer, clarifying the dispute in a way that serves largely to deflate it. I believe the criticisms should be taken seriously, and so I think the capacity of my proposed anatomy of justice to address them not only deflates the dispute; it reflects favorably on the anatomy.

Section I elaborates the complaint against state-oriented theorizing that I'll subsequently use the anatomy of justice to answer. Section II locates the variants of liberalism that must answer that complaint, and it previews the contribution of the anatomy of justice to my defense against it. Sections III and IV comprise the substance of my defense, with section III assessing state-oriented liberalism's capacity to underpin radical feminist and egalitarian critique and section IV assessing state-oriented liberalism's capacity to underpin radical normative guidance for reform. I conclude that the substantive and theoretical liabilities of state-oriented theorizing about justice have been massively overstated by critics. Section V briefly considers upshots for liberal feminism and for the anatomy of justice.

I. Culture and Ideology Critique

A common thread runs through much feminist opposition to liberalism: the conviction that liberalism's fundamental commitments render it overly status quo deferent. Reflecting on liberalism's commitment to preserving individuals' freedom to live their lives according to their own values, for example, Alison Jaggar writes that the "inevitable result" is "the tacit acceptance of conventional or dominant values."⁴ Catharine MacKinnon describes "the strategy" of liberalism like this: "first to constitute society unequally prior to law; then to design the constitution...so that all its guarantees apply only to those values that are taken away by the

⁴ Jaggar 1983, 189.

state; then to construct legitimating norms so that the state legitimates itself through noninterference with the status quo.” On this strategy, “so long as male dominance is so effective in society that it is unnecessary to impose sex inequality through law..., not even a legal guarantee of sex equality will produce social equality.”⁵ And bell hooks argues that feminisms underpinned by the liberal values of autonomy and social equality fail to appreciate that race and class oppression are “feminist issues with as much relevance as sexism.”⁶ These theorists’ arguments are distinct, but they’re united in the claim that liberalism’s signature commitments render it overly deferent to the status quo—even when the status quo is patriarchal, sexist, racist, or economically unjust.

The most powerful feminist defenses of liberalism coopt these challenges for *internal* critique. Martha Nussbaum argues, against Jaggard, that liberalism *rightly* values agency, and that while some strands of liberalism have deferred overly to convention, they have done so *to the detriment of* agency and thus actually “did not follow the vision of liberalism far enough.”⁷ Addressing MacKinnon’s charges, Nussbaum argues that liberalism can and should include a commitment to substantive equality. MacKinnon’s criticism of certain legal decisions is apt, then, but not an apt criticism *of liberalism*.⁸ In response to charges of neglect for race and social class, Nussbaum again spotlights the egalitarian and anti-racist credentials of liberalism’s foundational normative commitments, which plenty of liberals historically have wrongly theorized in complacent, inegalitarian ways. She says:

⁵ MacKinnon 1989, 163–64.

⁶ hooks 2014, 27.

⁷ Nussbaum 1999; but see Phillips 2001.

⁸ Nussbaum 1999, 68–69.

As a liberal feminist, one is also, by the entailment of one's very feminist position, also an antiracist...and a supporter of fair equality of opportunity across classes. One's feminism is not mere identity politics, putting the interests of women as such above the interests of other marginalized groups. It is part of a systematic and justifiable program that addresses hierarchy across the board..."⁹

I think this aspiration to address hierarchy across the board is manifest in recent liberal feminist scholarship, including in the liberal feminist arguments reviewed in the previous chapter. That is not to say the aspiration is fully realized. But if the arguments are sound, this scholarship stands as a possibility proof: It demonstrates liberalism's radical potential to challenge the status quo. Yet doubts about the possibility of a truly feminist liberalism persist. Liberalism's feminist critics by and large don't press their criticisms of liberalism by engaging with liberal feminist scholarship that advances substantive normative and critical arguments. That is, they do not proceed by showing that arguments like mine or Hartley and Watson's are unsound and thus cannot serve as arguments by demonstration for the radical potential of liberalism. Instead, they continue to invoke headline features of liberalism that *seem* as though they would limit its critical and normative resources. One concern in that mold centers the role of culture and ideology in sustaining injustice. Though she addresses her criticism not to liberalism per se but to "mainstream" normative political theorizing broadly,¹⁰ Sally Haslanger's work on methods of social critique lends force to this concern. For her, we'll see, "ideology" refers to informal social practices, or parts of culture, that sustain injustice. In her critical case, Haslanger addresses structural commitments of "mainstream" normative political theory that she thinks

⁹ Nussbaum 1999, 71.

¹⁰ Haslanger 2017, 153.

render it inadequate for ideology critique. Those commitments include a focus on the state as the primary subject of justice. Since the statist focus is famously characteristic of liberalism and since sexist culture and ideology are primary culprits in the maintenance of gender inequality, liberal egalitarian feminists will need to answer this challenge.

While criticizing the “mainstream,” Haslanger forwards her own favored method of social critique.¹¹ I do not want to disparage that method or Haslanger’s many positive contributions to our thinking about justice. Liberalism needs ideology critique and social theory. But on my view, both our thinking about justice and our work to ameliorate *injustice* should be guided, too, by liberal normative justice theory. I’ll argue that liberal theorizing has radical critical and normative potential in part *because* it focuses on the state and political institutions as tools for remediating injustice. I think Haslanger under-appreciates that potential. But her criticism of state-oriented political theory yields insights that can help move us beyond the longstanding impasse between liberal feminists and liberalism’s feminist critics: Because of Haslanger’s vigilance about the role of culture in sustaining injustice, the challenge for state-oriented liberalism that I find in her work can help us to think well about what a framework for theorizing justice needs to equip us to say about culture, and what it needs to direct us to do, in order to be adequate.

Haslanger is hardly alone in finding state-oriented justice theorizing to be inadequate.¹² At times, I will sharpen her complaints by allying her critical arguments with those of G. A. Cohen. In whole, the critical arguments I consider appear to surface two important shortfalls. First is a *diagnostic* shortfall: a divergence between the critical work state-oriented liberal principles of justice can do and the critical work we should want our justice theorizing to do.

¹¹ Haslanger 2021b; 2017; 2020.

¹² Feminists have long charged liberalism with an undue or exclusionary emphasis on the state and political institutions as a means of promoting justice. See MacKinnon 1989; Jaggar 1983, 199–203. See also Young 2011.

Second is *normative* shortfall: a divergence between the political remedies for injustice state-oriented liberal principles of justice can approve and the remedies we should want justice theorizing to approve. I argue that the diagnostic and normative limits of state-oriented theory are not as Haslanger and Cohen describe them. Perhaps there is yet some diagnostic or normative shortfall that we should deem an inadequacy of state-oriented theorizing. But I think that, once we see how robust a state-oriented theory's diagnostic and normative resources can be, critics will be hard-pressed to sustain a categorical rejection of all state-oriented theory as inadequate.

To appreciate the critical case that needs answering, begin with this simple and undeniably true observation: Justice can be undermined by sexist culture, where that sexist culture operates within the informal practices of a society and isn't sustained by overtly sexist law. The problem, says Haslanger, is that "within mainstream moral philosophy, normative analysis seems to focus on either individuals or the state. Culture is almost entirely left out of the picture."¹³ Mainstream *political* philosophy takes the latter focus: Following Rawls, many theorists take the primary subject of a theory of justice to be the "basic structure" of society, or the structure by way of which "the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation."¹⁴ Since Rawls is Haslanger's primary target and since her criticism assails the restriction of normative appraisal to "the state," I will take "the state" and "political institutions" to be synonymous with the Rawlsian "basic structure." The crucial feature of the state or the basic structure for our purposes is that it excludes informal culture. Because culture is left out, mainstream political philosophy seems impotent for the purposes of *culture critique*—for criticizing social injustices like those sustained or constituted by gender norms concerning work and caregiving. In that case, "the question is not

¹³ Haslanger 2017, 153.

¹⁴ Rawls 1999, 6.

how a particular family should divide labor. Rather, it is a question about social norms, the formation of gender identity, and the socialization of individuals through particular practices of intimacy, sexuality, parenting, and economic cooperation.”¹⁵ These practices evidently are not sustained by an unjust basic structure (nor by individual moral failing), so we evidently need theory that equips us to critique social machinery beyond (individual fault or) institutional failing. State-oriented political theory thus seems inadequate, because to adequately address injustice, theory must assess culture and not only the state (or individual behavior).¹⁶

So, Haslanger is principally concerned with methodology for establishing culture as unjust, and she finds mainstream theorizing inadequate in part due to its focus on the state.¹⁷

Or, to use the term she favors for unjust culture, she argues that a focus on the state as the primary subject of justice renders mainstream political theorizing inadequate for critiquing and addressing *ideology*. For Haslanger, “ideology” is pejorative by definition; and its primary unit of analysis is “culture” or “cultural technē,” which is a “network of social meanings, tools, scripts, schemas, heuristics, principles, and the like, which we draw on in action, and which gives shape to our practices.”¹⁸ Social critique is the work of criticizing collections of social meanings as ideological: as cultural technē gone wrong. Culture can go wrong—it can create or sustain injustice—either by organizing us in unjust ways or by preventing us from seeing well what is really of value.¹⁹ That some piece of culture is ideological, for Haslanger, means that it

¹⁵ Haslanger 2020, 8.

¹⁶ Haslanger 2020, 1; see also 2017.

¹⁷ E.g. at Haslanger 2017, 168, 153; 2020, 1.

¹⁸ Haslanger 2017, 155–56; 2021b, 26–27.

¹⁹ Haslanger writes: “An ideology is a cultural technē ‘gone wrong.’ It prevents us from recognizing or creating forms of value, and/or, organizes us in unjust ways. This account of ideology is functionalist, pejorative, but not doxastic. It is functionalist because the evaluation of a technē as ideological depends on how it functions in a context; it is pejorative because, in being ideological, it functions to create or sustain injustice; and it is not doxastic because a cultural technē is not a set of beliefs, but is, rather, a set of public meanings (though some parts of it may be internalized as beliefs and other attitudes). The cultural technē both provides resources to interpret and also shapes the material world.” Haslanger 2021b, 2.

functions, in its operative context, to create and sustain injustice and oppression.²⁰ Haslanger’s conception of “ideology” is distinctive, both in terms of the social entities that can rightly bear the designation and in terms of the negative evaluation that it denotes: On her view, not only beliefs or forms of social consciousness but *aspects of culture broadly* can be ideological, and they can be ideological in virtue not only of their epistemic consequences but also by sustaining unjust arrangements more directly.²¹ Haslanger’s implied criticism of state-oriented normative theory is correspondingly broad. She claims that because ideological culture contributes to injustice, state action is insufficient to secure justice and “our political efforts (and the normative inquiry that guides them) should not be focused entirely on the possibilities of state action and other policy changes.”²²

Beyond gender norms, Haslanger’s argument draws on the U.S. Supreme Court case *Brown v. Board of Education* and subsequent legislative and judicial attempts to desegregate racially segregated schools. She observes that racial achievement gaps and racial educational segregation persist now despite the court’s desegregation orders in the wake of the 1954 *Brown* decision. These racial achievement gaps are sustained, among other things, by patterns of residential segregation, which persist even in the face of court-mandated desegregation of schools. After *Brown*, Haslanger argues, the state intervened “in an attempt to improve the economic and political position of the subordinated”; but collections of social meanings—ideological culture—mediated the space in between social policy and individuals’ response to that policy in such a way as to make the policy fail: Injustice persists because of oppressive culture even when that injustice isn’t sustained by state action,²³ and indeed even

²⁰ Haslanger 2017; 2021b.

²¹ See, for example, Haslanger 2017, 159–60; 2021b, 23; 2012, 18, 413. For a construal of ideology on which “ideological” is primarily predicated of beliefs or forms of social consciousness, see Shelby 2003, 157–60. For a construal which is (I think) distinct from both Haslanger’s and Shelby’s, see Mills 2017, 79.

²² Haslanger 2017, 150. See also Haslanger 2012, 16.

²³ Haslanger 2017, 155.

when the state acts *from concern* for the oppressed: “At the heart of these patterns of racial injustice is a structure of social relations that is ideologically sustained in spite of legislative, judicial and individual efforts to change it.”²⁴

We might wonder what these particular legislative and judicial efforts can prove about the prospects for reform through state effort generally. The failure of any isolated attempt to mitigate injustice doesn’t show that state action as such is impotent, particularly when that attempt is flawed or undermined by state action at another level. We’ll return to this. For now, we can get Haslanger’s point off the ground with a fairly mundane observation: Ideological culture clearly contributes to (sustaining) injustice. But following Rawls, liberal justice theorizing tends to treat arrangements of political institutions as the primary subject of justice. Haslanger’s point that ideological culture lies at the heart of injustice seems to challenge such state-oriented theorizing: If in focusing on the state liberalism neglects culture, and if culture lies at the heart of injustice, then liberalism is an inadequate framework for theorizing injustice.

II. Varieties of Liberalism and the Basic Structural Focus

Now, state-oriented theorists of justice are perfectly well-positioned to countenance a wide array of normative claims and a wide array of value-laden descriptive claims about a wide array of social entities. Some piece of culture or a social practice may be *racist* or *sexist* or *patriarchal*, and those designations themselves carry condemnation. Similarly, individual behavior can be racist or sexist. State-oriented liberals needn’t and shouldn’t think that state-oriented principles of justice capture all social normativity. For this reason, *some* of what Haslanger says simply misfires when applied to even the most abstemious of liberalisms. For

²⁴ Haslanger 2017, 152.

example, state-oriented liberals can agree with Haslanger that “political efforts (and the normative inquiry that guides them) should not be focused entirely on the possibilities of state action and other policy changes.”²⁵ Many liberals focus on the state; Haslanger focuses on culture; both could think the other contributes something important to social and political normativity.

The wrinkle for liberals comes when we ask about the terms of evaluation: about what things certain liberals regard as directly compelled by principles of justice. As we’ve seen, John Rawls applied his principles of justice primarily to the basic structure of society. Principles of justice do judge individual behavior, but only derivatively: We are each required by justice only to do our part in supporting or bringing about a just basic structure. To illustrate, consider Rawls’s difference principle, which favors the arrangement of social institutions within which the worst off are better off than under any other arrangement. The difference principle clearly encodes special concern for the least advantaged, but it doesn’t ask *individuals* to act to benefit the least advantaged *directly*. On the contrary, the difference principle asks individuals only to support and comply with (or to support the formation of) the arrangement of political institutions that’s favored by the difference principle.²⁶

Haslanger’s challenge clearly needs response from liberal theorists who follow Rawls in regarding the arrangement of political institutions as the primary subject of justice. But disputes about the restriction of justice to institutions arise among liberal theorists just as they arise between liberals and their critics. Beyond arguing that *culture* should be susceptible to condemnation at the bar of justice, some liberal critics of the Rawlsian basic structure restriction argue that a theory of justice should judge individuals’ behavior, not only derivatively but even

²⁵ Haslanger 2017, 150.

²⁶ Rawls 1999, 293–94. See also Rawls 1999, 99, 154, and 415.

when that behavior has no bearing on whether political institutions are just. Following G. A. Cohen, these critics tend to focus on two kinds of behavior: the “market-maximizing” behavior of economic agents who demand incentives to exercise talents in socially valuable ways,²⁷ and the “housework-shirking” behavior of family members who freeride on a partners’ unpaid domestic and caregiving work.²⁸ The primary argument for including such behavior in the direct subject matter of justice draws on an observation about how behavior relates to culture and on what it functions to do: Market-maximizing and housework shirking comprise patterns of behavior that sustain *social norms* that profoundly impact the lives of both those who participate in them and those who want to defect. Referring to a culture or “ethos” of justice, Cohen argues as follows: “To the extent that we care about coercive structure because it is fateful with regard to benefits and burdens [of social cooperation], we must care equally about the ethos that sustains gender inequality and inegalitarian incentives.”²⁹ And because individuals can directly help or hinder the goals of justice through their behavior—for example, by contributing to a culture of material acquisitiveness that makes things worse for the least advantaged—individual behaviors should not be beyond the direct reach of principles of justice.

So, important strands of liberalism are animated, just as Haslanger is, by the conviction that culture matters deeply to the justice of a society;³⁰ and some infer from this that culture and individual behavior can be unjust. This means that only *some* liberals need answer Haslanger’s inadequacy charge against state-oriented theorizing. Let’s distinguish three pieces of social machinery to which we might apply critiques and demands of justice: institutional arrangements, norms or culture, and individual behavior. Call liberals “conceptually permissive” who are happy

²⁷ Cohen 1992; 1995; 2000; Murphy 1998.

²⁸ S. A. Lloyd 1994; Neufeld 2009; Nussbaum 1999; Okin 1989; 1994; 2005.

²⁹ Cohen 2008, 138.

³⁰ Cohen himself is only *arguably* a liberal (see, for example, Cohen 2008, 10, 12). But see, in addition to others cited in the paragraph above, Chambers 2008; 2017, 190; Allen 2004, 138; Schemmel 2021.

to subject all three things—individual behavior, culture, and institutions—to demands of justice. Now notice that while Cohen moves from arguing that culture impacts the goals of justice to inferring that *individual behavior* can be (non-derivatively) unjust, we *could* stop at culture.³¹ Call liberals “conceptually moderate” who would subject institutional arrangements and norms or culture, but *not* individual behaviors, to demands of justice.³² Haslanger often seems motivated by the view that culture can be unjust and that culture is not reducible to individual behavior.³³ Conceptually moderate liberalism seems well-positioned to accommodate that view. Finally, still other liberals, like Rawls, are what I’ll call “conceptually stingy”: They subject only institutional arrangements to direct demands of justice. *Individuals* act unjustly—and *culture* is unjust—only derivatively: when that behavior or that piece of culture undermines (the formation of) just institutions.

Conceptually permissive liberals, conceptually moderate liberals, and conceptually stingy liberals take opposing positions on the question of how far the demands issued by principles of justice extend: Do principles of justice regulate and condemn only institutional arrangements, or also culture and individual behavior?³⁴ The anatomy of justice sheds light on this disagreement.

The first step toward illumination is to notice that the disagreement arises *downstream of* the anatomy of justice. Recall that verdictive justice ranks social arrangements according to their realization of political value—of the things that matter from the perspective of justice. The amount of political value realized by a social arrangement is indexed to the circumstances of the

³¹ But see Cohen 2008, 145–46.

³² I read Christian Schemmel as developing a culturally moderate liberal relational egalitarianism in Schemmel 2021, for example at 116, 165, and 195.

³³ See, for example, Haslanger 2012, 20; 2012, chap. 11. But also see Haslanger 2020, 1, where she clarifies that the “site” of social critique includes individuals and the state.

³⁴ Do the parties accuse each other of making a *conceptual* mistake? Only sort of: Here unlike in earlier chapters, the disagreement under consideration is not about the concept “justice.” I think we *can* understand the disputants as disagreeing about the concept “principle of justice,” but I wouldn’t fight for that characterization. I use the modifier “conceptual” mainly to set up the point that stingies, moderates, and permissives can agree on much *of substance*.

society so arranged, including to facts about patterns of individual behavior, culture, and history. For example, in a society without a racist history, a political regime that prohibits racial preferences in hiring might realize more political value than a regime that permits such preferences. But in a society *with* a racist history, the reverse might be true, even holding fixed all other institutional features. We might better realize the values of mutual respect, distributive fairness, and/or community if we act to address ongoing and structural effects of racism, for example by implementing some degree of affirmative consideration for members of targeted social groups in hiring and admissions. As I've emphasized throughout, different circumstances call for different institutional configurations and political practices to realize a constant set of values of justice.

Suppose a conceptually permissive liberal, a conceptually moderate liberal, and a conceptually stingy liberal walk into a bar. Sitting down to talk about justice, they agree on all the values of justice and all the facts about the relative importance of those values. They agree, say, that the anatomy of justice captures the truth about aspirational political values and political legitimacy, and they agree fully on the ranking of social arrangements that verdictive justice gives. Since our three liberals in the bar all agree on the anatomy of justice, they agree for example that distributive inadequacy is a problem of legitimacy and that distributive inequality is always a problem of fairness. They agree with both me and Haslanger that the gendered division of labor makes our current social arrangement worse with respect to (verdictive) justice: that our social arrangement realizes less (verdictive) justice than it could because of “the social norms, the formation of gender identity, and the socialization of individuals through particular practices of intimacy, sexuality, parenting, and economic cooperation.”³⁵ Our three liberals in the bar can

³⁵ Haslanger 2020, 8.

therefore agree on quite a lot about justice, despite being starkly at odds on the question of what social entities normative principles of justice judge.

Their *disagreement* arises only when we ask about apt terms of condemnation and prescription. Our conceptually permissive liberal in the bar may think that individuals behave unjustly insofar as they comply with the practices and norms that comprise the gendered division of labor; that those norms and practices are unjust; and that the state acts unjustly insofar as it omits to disrupt them. Our conceptually moderate liberal might say that gender norms and gendered institutional arrangements are unjust, but that individual behavior that (directly) sustains those norms cannot be so impugned. She agrees with her more permissive companion that individual behavior makes a social arrangement *less valuable by the lights of what matters for justice*, because that behavior makes realizable only a lower range on the ranking of verdictive justice. But she thinks such behavior is inapt to be impugned as *unjust*. Finally, our stingy liberal might think that political institutions act (omit) unjustly when they fail to interrupt the norms comprising the gendered division of labor, but that the norms themselves and the behaviors that sustain them cannot be so regarded. *She* agrees with *her* more permissive companions that norms and individual behavior influence the range of verdictive justice we can access, and so can make a social arrangement less valuable by the lights of justice. But she thinks *both* individual behavior and cultural practices are inapt for being impugned as unjust.

The anatomy of justice's key contribution to this debate is to illuminate this possibility that liberals across conceptual camps can agree on so much of substance. It excavates the conceptual space within the evaluative underpinnings of normative principles to make the possibility vivid, and it provides theoretical resources to talk about the places of agreement. But the possibility of extensive substantive agreement across these three camps is otherwise not an

exotic point: After all, Cohen and Rawls—conceptually permissive and conceptually stingy respectively—agree in large part about *what things matter* from the perspective of justice. Their *disagreement* concerns the extension of social critique and normative recommendations derivable from those things that matter: It concerns which entities are judged directly by principles of justice. Similarly, our three liberals in the bar agree, we've supposed, about *what matters* for justice. And they agree about how much each thing matters relative to other things that matter. Their disagreement arises only when we ask about the apt terms of condemnation and recommendation.

Just as those within different conceptual camps can agree on quite a lot about justice, those within the *same* camp can *disagree* about quite a lot. Both a liberal and a staunch critic of liberalism can be conceptually permissive about justice. Within liberalism, too, permissives can disagree with permissives, moderates with moderates, and stingies with stingies about *which* behaviors, norms, or basic structures really are unjust. Haslanger's charge of structural inadequacy against state-oriented theory threatens to undermine all and only conceptually stingy theorizing. The crucial question for our purposes in this chapter, then, concerns the substantive costs of conceptual stinginess: What critical and normative work is stingy liberalism left un-equipped to do by virtue of restricting the subject matter of justice to political institutions and institutional arrangements? What data points about justice and injustice is it structurally ill-fit to accommodate? I consider this question on behalf of the liberal egalitarianism that the anatomy of justice aims to develop. To what extent can a conceptually stingy advocate of the anatomy accommodate the extensional data points that egalitarian and feminist critics of the institutional focus think stinginess sets beyond reach?

III. What Can Stingy Liberal Justice Impugn?

Let's first consider stingy liberalism's *diagnostic* adequacy: Does stingy liberalism's focus on the state as a subject of (in)justice prevent it from doing crucial diagnostic or critical work in identifying injustice? The feminist or egalitarian case against stingy liberalism invokes data points that critics like Haslanger and Cohen think stingy theorists of justice are unable to accommodate. To start, recall the mundane observation that culture can function to sustain injustice. This observation is enough to raise questions about (stingy) liberalism's adequacy. For if culture can sustain injustice but stingy liberals cannot call culture unjust, how could their theories be adequate? For example, if Rawls's basic structure restriction renders his theory unable to condemn culture as unjust, how can that theory guide us when culture functions to sustain injustice?

To assess its diagnostic adequacy, we must examine the terms on which stingy liberals *can* find culture and individual behavior at fault, even as they regard both as inapt to be condemned as *unjust per se*. First, as already noted, stingy liberals can accommodate social theoretic claims that a social practice or piece of culture is *racist* or *sexist*, or that (some of) those who participate in racist or sexist practices are racists or sexists. Justice doesn't encompass all normativity or even all *political* normativity, and injustices are not the only wrongs. These terms and others can carry clear moral condemnation and a clear call for reform. Of course, when it comes to wrongs and bads like racism and sexism, we often do think in terms of justice. Stingy liberalism can accommodate this, too. A stingy liberal operating with the anatomy of justice can appreciate the myriad ways in which cultural practices and individual behavior lead to less valuable social arrangements by the lights of verdictive justice. A culture of materialist consumerism can make the least well off worse off than they'd be if a different ethos prevailed.

A racist or sexist culture can undermine the equal standing of women or people of color and is plausibly corrosive to verdictive justice in other ways as well. However we analyze designations like “racist” or “sexist,” stingy liberals can use the values comprising verdictive justice to substantiate these condemnations of culture or individual behavior without calling culture or individual behavior *unjust per se*. A stingy liberal feminist can regard her uncle as a sexist or a racist when he makes a deplorable remark at Thanksgiving, and she can regard the culture that emboldens him as sexist or racist as well. She can defend these claims by showing how patterns of such behavior impede our realization of a more valuable span of verdictive justice. Stingy liberals only deny that these charges translate automatically to charges of *unjust per se*.

Second, conceptually stingy liberals can and should attend to the ways in which culture and individual behavior affect political institutions and the ways in which political institutions influence culture and individual behavior. For Rawls, while justice does not require individuals to work to further the values of justice directly, it does require individuals to support and comply with a just basic structure, or to work to bring it into being. So, for example, while any moral mandate to benefit the worst off *directly* isn't a demand of justice, justice does condemn individuals who omit to act to contribute to building and supporting *institutions* that optimize the position of the least well off. Or when a racist uncle's deplorable remarks contribute to social practices that prevent adequate institutional protection for the equal political enfranchisement of people of color, that uncle acts unjustly by failing to support just institutions. In short, when individual behavior affects institutions, that behavior can be condemned as *unjust per se*.

What about the other direction of influence? What can stingy liberals say when institutions influence cultural practices or individual behavior? While stingy liberals cannot call racist or sexist or materialist culture “unjust,” they can say that *institutions* are unjust when those

institutions fail to do their part to reform racist or sexist or materialist culture. So, a conceptually stingy liberal feminist might say that while gender norms are not themselves unjust, institutions are unjust insofar as they fail to erode those norms—for example, by incentivizing norm-transgressive behavior to reform norms over time. She can issue this judgment on the grounds that the norms in question impede our realization of a more valuable span of verdictive justice. We'll see that this potential of the basic structure to influence norms is a powerful source of diagnostic capability for the stingy liberal.

Third, just as stingy liberals can issue the critical claim that institutions are unjust insofar as they omit to reform social norms that impede our realization of more value by the lights of verdictive justice, so too can they issue corresponding critical diagnoses of the norms themselves: They can say that some norm or social practice *should be eroded as a matter of justice*. They can say that some individual behavior *should be acted on* as a matter of justice. Here again, stingy liberals can issue such charges on grounds that norms, social practices and individual behaviors influence the span of verdictive justice that a society is able to realize. When they do so by obstructing a more valuable range, stingy liberals can diagnose those norms and practices, not as *unjust*, but as *calling for rectification as a matter of justice*. A racist or sexist culture that emboldens the despicable uncle calls for rectification as a matter of justice. The devaluation of caregiving and the association of women with devalued work call for rectification as a matter of justice. And, more broadly, the myriad social practices that allocate power unequally along lines of class, race, and gender are practices that call for rectification as a matter of justice.

The key to understanding these diagnostic capacities of stingy liberalism is to notice the possibility that my anatomy of justice elucidates: A piece of social machinery like a cultural

practice might lessen the degree to which our social arrangement realizes justice without being *itself unjust*. When stated plainly, this possibility can seem bizarre or even incoherent. It is neither. The need to put food on the table may lessen the extent to which there is beauty in the world, because the need to put food on the table limits the time which those of us who aren't professional artists can devote to artmaking. The need to put food on the table might be regrettable or condemnable on that basis. But the need to put food on the table is not *ugly* by virtue of lessening our realization of *beauty*. The imperative to protect the vulnerable may limit the extent to which there is mercy in the world, because some protective practices might be ineliminably putative. But the imperative to protect the vulnerable is not *vicious* by virtue of lessening our realization of *mercy*. Whether it is regrettable or condemnable is a substantive question. Similarly, some social practice can lessen the extent to which we realize verdictive justice without thereby being *unjust* by the lights of a set of normative principles of justice inferred from the anatomy of justice. Whether that practice is condemnable on other terms, and how we should act on it, are distinct substantive questions.

Notice that the left-liberal feminist scholarship reviewed throughout this book could leave entirely open the question of which pieces of social machinery can be *unjust per se*. This scholarship examines the ways in which and the grounds on which certain social practices call for rectification as a matter of justice: These practices include gendered caregiving and labor market participation, pornography, prostitution, marriage, and religious exemptions from equal protection statutes.³⁶ The scholarship considers promising levers of rectification and asks of these levers which constitute permissible exercises of political power. If we read these contributions in a conceptually permissive lens, we might read them as concluding that the practices in question

³⁶ Beyond the standing examples of Nussbaum (Nussbaum 1999), Watson and Hartley (Watson and Hartley 2018), and Schouten (Schouten 2019), see also Brake 2012; Watson 2015; and several of the feminists writing on basic income discussed in the previous chapter, just for a sampling.

are *unjust*. If we read them through a stingy lens, we'll read their conclusion differently: The practices call for rectification as a matter of justice, because they prevent us from realizing some of what matters from the perspective of justice; and *institutions* are unjust insofar as they fail to do what they can to provide or induce or incentivize the rectification in question. Because the critical upshots diverge so subtly, a reader need never know whether the author would limit the purview of justice's direct condemnations beyond the limits imposed by the substance of what matters itself—that is, by constraints of legitimacy. For example, stingy or not, the substance of legitimacy tells us that we mustn't criminalize housework-shirking. How we might act politically on housework-shirking short of criminalizing it, and when individual shirkers act wrongly or are to blame, are matters of substantive disagreement among liberal feminists. The terms on which we condemn that behavior or the culture it sustains take a back seat, in these discussions, to questions of when and how individuals should act otherwise and whether and how institutions can induce them to.

In large part, then, contemporary liberal feminist arguments proceed without any clearly discernible commitment to or against stinginess. This fact gives some reason to doubt that stinginess comes at great substantive cost. But the force of this point will seem to some readers to cut *against* stinginess. I've been suggesting that the critical divergence between stinginess and permissiveness, with respect to culture, comes down to a difference between impugning culture as *unjust* and impugning it as *calling for rectification on grounds of justice*. But if the substantive implications of stinginess are so minimal, why not just abandon the commitment that forces all those extra words?

So far, we've focused on the set of data points that critics of stinginess emphasize in their criticisms: data points that stinginess (merely) appears not to accommodate. But stingy liberals

reserve “unjust” for institutional (in)action in order to accommodate a different set of data points, which some critics of stinginess ignore: We should be able to have a demandingly feminist, demandingly egalitarian theory of justice without condemning as unjust every behavior or bit of culture that disrupts equality. In our circumstances, inequality is ubiquitous, and because of that, some patterns of perfectly mundane behaviors obstruct the path toward rectification. A lot of that behavior is rightly subject to moral condemnation. But nobody should adopt the view that any norm of behavior is unjust if that norm or behavior *fails to optimize with respect to justice*.

To illustrate, recall the Rawlsian difference principle: For Rawls, justice favors the institutional arrangement within which the cumulative effect of individuals’ production and consumption choices is to promote the good of the least advantaged. That means institutions should elicit certain kinds of behaviors. For example, the difference principle might favor an arrangement of labor markets that incentivizes pediatricians working in rural areas, but that calibrates wage differentials carefully: We should pay rural pediatricians more if and only if paying them more is necessary to bring them where they’re needed; and we should pay them *only as much* more as is necessary to achieve that end.

Now, if I’m a pediatrician, the least advantaged are *best* served by my working in a rural area *but foregoing the additional salary* meant to draw me there. Nonetheless, for conceptually stingy Rawls, justice permits me to accept the higher salary, even if the least advantaged would be better off if I took the same job at lower pay. In no sense is the difference principle violated by my choice to take the offered pay differential for working in the under-served area, even though the values that just institutions are arranged to realize would be better realized if I chose differently. This is true, too, of *patterns* of such behavior, even when they come to exert pressure as acquisitive social norms or market-maximizing culture. A stingy liberal like Rawls needn’t

police other theorists' terminology, but he can defend his proposed principles of justice as an answer only to the basic structural question of justice: His principles of justice are meant to impugn neither individual behaviors that neglect to promote the ideals those principles embody nor the informal culture those behaviors contribute to. Perhaps such behavior and norms should be impugned—that is a distinct, substantive question. But they are not *unjust per se*.

One appeal of stinginess is that stingy principles of justice can be demanding without decimating any prerogative for individuals to pursue their own private projects. Stinginess permits offloading some kinds of impartial moral concern to institutional configurations.³⁷ How much concern gets offloaded and how demanding justice is notwithstanding that offload are determined by the substance: by the content of what matters and especially by the constraints and demands of legitimacy.³⁸ But *some* cases of offload comprise data points that all parties will be concerned to account for: Even critics of stingy liberalism, even if they think justice issues very stringent demands, probably don't think our rural pediatrician must decline the salary offered to her in favor of a lower one *anytime* doing so would further the realization of the egalitarian principles of distributive justice they favor. If her brother lives in the city, and she likes seeing him regularly, but she likes it marginally less than she would like the additional income she could get with the salary incentive for moving to the country, surely justice doesn't ask that she move to the country *and* forego the salary incentive, even if that's the choice that would maximize the good of the least well off. Cohen agrees with this verdict, saying that justice must permit us all to be more than only "slaves to social justice."³⁹ Cohen accommodates the data point not by being conceptually stingy with justice but by appending a personal prerogative that sometimes permits

³⁷ But by no means *all* impartial moral concern. For discussion, see Cohen 2008, 8–11.

³⁸ For stingy liberals, the restricted application of justice may not be a foundation-level commitment but rather a pattern that emerges from the judgments issued by the things that matter, especially legitimacy. See Schouten 2013.

³⁹ Cohen 2008, 10.

us not to optimize with respect to the values of justice. But he never specifies just what this prerogative allows or how permissive it is. The stingy liberal approach to accommodating the data point that we are more than slaves to social justice is principled: The pediatrician does not behave unjustly for the simple reason that justice is *principally* about institutions. We will still need to ask when some individual or cultural failure to optimize is morally condemnable, but because it is an individual or cultural failure, we know it is not condemnable *as unjust*.

When it comes to theorizing normative principles of justice, stingy liberals begin by asking how the major institutions of society should be arranged given the effects of that arrangement on the standing of each individual citizen, both with respect to other citizens and with respect to her share of the benefits and burdens of social cooperation. Stingy liberals try to formulate answers to that question without constraining themselves to rejecting any answers that would be implausible if applied to the obligations of each cooperator individually. Conceptual stinginess is partly motivated by the conviction that verdictive justice does not ask us to try, with every decision we make, to predict the long chain of consequences including implications of our behavior for culture, and to act only in ways that optimally realize the values that just institutions promote.⁴⁰ Perhaps *aspirational* justice asks us to do just that. But verdictive justice, with its mutual-respect-based constraints on our pursuit of the aspirational, does not. We should want our terms of social cooperation to be just, but individual conscientiousness is not only *insufficient* to secure justice (on which, more later); that degree of conscientiousness is too much for justice to ask, because justice is demanding and because we each are more than just slaves to promoting it.

As Cohen's personal prerogative attests, restricting the reach of justice is not the only way to respect this datum that justice is demanding but that we are sometimes innocent for not

⁴⁰ See the discussion of pure procedural justice in Rawls 1999, 73–78. These considerations may be underwritten by still deeper reasons in favor of stinginess. See, for example, the considerations of publicity harnessed in Williams 1998. For Cohen's response, see Cohen 2008, 344–71.

optimizing with respect to it. But it is one principled way. It explains why our rural pediatrician may sometimes be innocent of injustice, even if by acting differently she would enable our social arrangement to realize more verdictive justice. In the next section, when we examine the *normative* adequacy of stingy liberalism, we will see another part of the case for stinginess. Our primary question for now is what important diagnostic data points we give up by being stingy. So far, we might seem to have given up some elegance: In some cases of culture or behavior that seems to call for censure, we cannot say straightforwardly that that behavior or culture is unjust. But this inelegance seems not to undermine the capacity of liberal egalitarian feminists to derive demanding content from liberal commitments.

Above, I canvassed some diagnostic resources of stingy liberalism with respect to culture and individual behavior: First, stingy liberalism allows for political condemnations other than “unjust,” so we can say that our deplorable uncle acts *immorally* or *as a racist or sexist* in some circumstances where he obstructs realization of verdictive justice. Second, stingy liberal justice does require individuals to contribute to building and securing *just institutions*. In some circumstances, then, even our innocent-seeming rural pediatrician might behave unjustly for taking the better paid job, because by acting differently she could have helped to bring about institutional change to better realize justice. (Suppose she is a social media influencer during a cultural tipping point with respect to material acquisitiveness, such that by publicly opting for a below-market salary she could build a constituency in favor of egalitarian labor market reform.) Meanwhile, stingy liberal justice requires *institutions* to intervene on culture or on individual behavior when doing so furthers verdictive justice, and it condemns institutions as unjust when they fail to so intervene. So, for example, we might say that educational institutions are unjust insofar as they omit to inculcate gender egalitarian social norms or anti-racist attitudes, or to

draw students into discussion of material acquisitiveness so those students come to see their behavior as producers and consumers as subject to moral appraisal. Finally, when some bit of culture obstructs realization of verdictive justice, we can condemn that culture as calling for rectification on grounds of justice.

Stingy liberalism can therefore be highly demandingly egalitarian. For one thing, securing egalitarian justice requires an institutional arrangement very different from the one we've got. It's easy to forget, for example, that Rawls impugned welfare-state capitalism as unjust by the lights of his two principles of justice.⁴¹ Instead, he argued, justice requires market socialism or a democratic economic system built to ensure and sustain broad dispersal of ownership of productive resources, including to the least advantaged. So, lest our rural pediatrician prime us to think about doctors demanding massively high salaries to work where they're needed or choosing obscenely lucrative specializations that serve a small market of customers with vast disposable income, we should remember that stingy liberalism is perfectly well-equipped to diagnose institutions as unjust when those institutions allow medical care to work this way. It is perfectly well equipped to diagnose the corresponding culture as calling for rectification on grounds of justice. It is perfectly well equipped to diagnose individual behavior as stingy or meanly acquisitive, and it is perfectly well equipped to diagnose individual behavior *as unjust per se* when individuals fail to do their part—perhaps a lot—to work for institutional reform. Some stingy liberals will not want to endorse these diagnoses, just as some conceptually permissive or moderate liberals may not want to endorse them. But stinginess does not preclude a theory of justice from issuing these diagnoses.

⁴¹ See Rawls 1999, xiv–xv. Against this reading, some canonical criticisms of liberal feminism claim, wrongly, that liberalism is unable to level “any direct challenge to the capitalist system” Jagger 1983, 199.

Stingy liberalism's diagnostic capacities with respect to gender norms and gendered behavior parallel its capacities with respect to market-maximizing. Liberal feminist arguments impugn gender norms and gendered social practices on grounds of liberal values like mutual respect and social equality. If those arguments are sound, we can conclude from them that gender norms and gendered social practices cause our social arrangement to rank lower by the lights of verdictive justice. Stingy liberals can argue on this basis that justice favors political interventions to act on culture and influence individual behaviors. They can argue, as I have, that justice requires structuring paid leaves to incentivize gender transgressive leave-taking. This might involve making leaves non-transferrable or penalizing workplaces when male leave-taking falls below some set threshold. Stingy liberals can diagnose institutions as unjust insofar as those institutions fail to act on culture in the relevant ways, and they can support *that* diagnosis using a diagnosis about culture: that the norms and social practices that comprise the gendered division of labor call for rectification on grounds of justice. They can diagnose individual behavior as sexist or patriarchal, and they can diagnose individual behavior *as unjust* when by behaving differently individuals could have effected institutional change for the better. Again, stingy liberals aren't committed by stinginess to any of these substantive claims. But stinginess doesn't preclude them, either.

Stingy liberals and their critics both need to walk a line. On one side, we want to avoid *too much* condemnation. The thing about culture, after all, is that it can often go wrong even when it's sustained by individual behavior that, taken in isolation, seems wholly unobjectionable. Intuitively, a (non-influencer) pediatrician who takes the salary she's offered because it enables her to work where she's needed but also visit her brother in the city does nothing even defeasibly unjust. A woman who foregoes a promotion because it would require her to spend a lot of time

away from her children does nothing even defeasibly unjust. These are data points we all should want to account for. On the other side, though, we risk *too little* condemnation. Justice is demanding, and we fall far short of realizing it. Many social norms and practices call for condemnation in justice-rich terms. Often, so do the individual behaviors that comprise or sustain those norms. Critics of stingy liberalism walk this line either by invoking a personal prerogative the content of which is left unspecified, or by ignoring it, invoking data points on only one side of it and charging stingy theorists of justice with neglecting them. In contrast, the anatomy of justice illuminates a principled stingy liberal pathway for walking the line: The rural pediatrician does not behave unjustly, but her behavior may nonetheless contribute to a culture that calls for rectification on grounds of justice, because a more solidaristic culture would better serve the interests of the worst off among us. The woman who foregoes the promotion does not behave unjustly, but her behavior might contribute to a culture that calls for rectification on grounds of justice, because a more gender egalitarian culture would be one in which jobs at all levels impose fewer tradeoffs in terms of parents' time with their children. In these cases, the behavior and the culture to which that behavior contributes impede our realization of verdictive justice. Assuming that by behaving otherwise these individuals couldn't effect institutional change, stingy liberals deny that the behaviors are even defeasibly unjust. But because it impedes verdictive justice, the culture that such behaviors sustain nonetheless may rightly be diagnosed as calling for rectification on grounds of justice. And the rectification it calls for might include political measures to change the incentive structure against which individuals make such choices, to render verdictive-justice-furthering behavior relatively more attractive and verdictive-justice-obstructive behavior relatively less so.

My burden has been to show that stinginess is not bought at the price of diagnostic inadequacy. The anatomy of justice enables me to make this case because it equips us to make sense of the crucial kind of condemnation: Even if culture cannot be unjust, it can nonetheless call for rectification on grounds of justice. Even if individual behavior is not unjust, it may be legitimately susceptible to political pressure on grounds of justice. These diagnoses enable liberals to talk in plausible and justice-rich terms about culture and individual behavior without relinquishing conceptual stinginess, and without relinquishing their capacity to accommodate data points on the other side of the line in a principled way. Culture can change over time, and institutions can exert pressure on it.⁴² Institutional arrangements can reform culture by shifting attitudes directly (through education or political rhetoric, for example) and indirectly (by incentivizing certain behaviors and burdening others, thus shaping norms and culture over time). I'll discuss these normative possibilities next. But already we see that the approach I'm forwarding addresses culture, individual behavior, and their role in sustaining injustice by making the diagnostic ride on the normative: For a stingy liberal feminist to say that gender norms call for rectification on grounds of justice is for her to say that justice favors social institutions that work to dislodge them. For a stingy liberal feminist *egalitarian* to say that norms of acquisitiveness call for rectification on grounds of justice is for her to say that justice favors institutions that work to inculcate norms of economic solidarity. It is to say that we can unlock a more verdictively just span of social arrangements by acting now, through institutions, to reform culture. And we reform culture in part by influencing individual behaviors. Stingy liberal feminist egalitarians can say these things on grounds of the plain truth that norms and patterns of

⁴² Danielle Allen writes that institutions “inevitably extend the reach and force of the cultural norms around which they are shaped. A shift in how people interact will inevitably also transform their institutions, just as when the snail changes direction, its shell turns too. But the cultivation of new cultural habits is not the only way to reorient institutions. They can also be reconfigured by intentional policy; a body constituted to amplify the effect of one set of norms in the world may reconstitute itself so as to amplify another set of norms” Allen 2004, 172; see also Haslanger 2021a.

behavior can frustrate the values that just institutions would be arranged to realize. When norms frustrate the things that matter for justice, those norms call for rectification on grounds of justice, and institutions are unjust insofar as they aren't arranged to provide rectification. And, when institutions are unjust, *individuals* can behave unjustly by omitting to act in ways that prompt institutional reform.

One last thing: Suppose the normative runs out before we've diagnosed all that warrants criticism. Suppose we've exhausted all legitimate institutional means of behavior nudges and culture reform: Institutions are doing all they legitimately may do—which liberals like me think is quite a lot—to shape culture and behavior in justice-conducive ways. And yet, suppose, market-maximizing culture persists. Here again, liberals will disagree on the substance: about whether anything in this case is actually worth impugning. But suppose a culture of market maximizing in our imagined scenario continues to impede realization of verdictive justice. If we're stingy, then that culture is not assessable *as unjust*. Nor can *institutions* be diagnosed as unjust in our scenario, for by assumption institutions are doing all they legitimately may do to influence the culture in justice-furthering ways. What diagnostic resources remain for the stingy liberal when no normative resources remain upon which a diagnostic critique might ride?

The stingy liberal can diagnose behavior and culture that impedes the realization of liberal values as “justice-impeding,” even when political institutions cannot legitimately act to nudge that behavior or reform that culture. Here again, the anatomy of justice can substantiate this designation. Suppose market-maximizing culture lessens our realization of aspirational justice, but we've already acted to rectify that culture in all the ways that legitimate democratic processes will approve. In this case, market-maximizing culture offends against the aspirational values that just institutions would be arranged to realize, but legitimacy condemns further action

to rectify the situation. So, we cannot realize more aspirational justice without sacrificing some legitimacy, which the anatomy of justice disfavors as a loss of value on the whole.⁴³ Happily, stingy liberals can impugn market-maximizing culture for undermining aspirational value even when institutions have done all they legitimately may do to intervene. The culture is *justice-impeding* simply because it relegates us to a less valuable span on verdictive justice's ranking than would otherwise be within reach. This diagnosis is normatively significant, though it doesn't respond to anything we ought to do right now: It tells us that, should the constraints of legitimacy ever shift, justice would reissue its demand that institutions act on the culture. And this can give individuals some kinds of reasons to act now, to shift institutional capacity and the constraints of legitimacy over time.⁴⁴

Haslanger insists that *culture* gone wrong, and not objectionable state action or inaction, at least sometimes lies "at the heart" of injustice.⁴⁵ Stingy liberals needn't disagree. They can recognize that culture can cause and sustain injustice. They can recognize that culture can call for reform on grounds of justice. They can diagnose culture as justice-impeding, and they can maintain that diagnosis even when legitimate institutional reforms are exhausted. These diagnostic distinctions track meaningful differences that liberals and critics alike have reason to observe. A critic might yet insist that justice theorizing is inadequate unless it can designate ideological culture as *unjust per se*. But given all that stingy liberalism can say on the diagnostic front—and depending still on what it can permit and prescribe us to *do* about injustice—a rejection of conceptual stinginess on grounds of its diagnostic incapacity begins to look like a question-begging rejection on technicality: an insistence that a theory of justice must be able to condemn culture as unjust, using just those words. Meanwhile, unless we *are* only slaves to

⁴³ For a more richly described case that meets these specs, we can think of *Fallen Utopia* from chapter four.

⁴⁴ See chapter four for further discussion of these reasons.

⁴⁵ Haslanger 2017, 152.

social justice, the rejector needs to find some way to walk the very same line that stinginess helps us to navigate.

IV. What Can Stingy Liberal Justice Prescribe?

Turn now to critics' doubts about stingy liberalism's *normative* adequacy: Does stingy liberalism's focus on the state *as a means of remedying injustice* render it impotent to prescribe redress for ideological culture? Haslanger regards state-oriented theorizing as normatively inadequate with respect to ideology, and she supports her view by invoking the failure of state-mandated school integration to realize educational justice. In school integration, through courts, the state intervened "in an attempt to improve the economic and political position of the subordinated," yet their economic and political position remains dire. Thus, oppressive culture can persist, and can sustain injustice, even when institutions try to set things right.⁴⁶ Beyond a charge of *diagnostic* inadequacy, Haslanger finds here a shortfall in the *normative* resources of state-oriented theory: in what theory tells us to do about injustice.

Haslanger offers no explicit standard of normative adequacy. Because her own theorizing focuses on critiquing injustice but not on thinking through what we ought to do about it, we have few clues as to what she thinks normative political theory should tell us to do.⁴⁷ I propose to examine stingy liberalism's structural normative *limitations* and ask whether a critic might plausibly regard them as *inadequacies*. First, we'll look closer at the limitation Haslanger focuses on. I'll argue that the failure of Supreme-Court-mandated school integration to secure educational justice does not establish the normative inadequacy of stingy theorizing. We'll also consider a limitation that Cohen finds, as well as one more candidate case for surfacing stingy

⁴⁶ Haslanger 2017, 155.

⁴⁷ As she puts it, "the social critic's role is primarily negative." Haslanger 2021b. She does, however, articulate social aspirations in various places, for example in Haslanger 2012, chap. 8.

liberalism's normative inadequacy. I'll argue that the normative limitations of stingy liberalism are considerably less significant than either Haslanger or Cohen takes them to be. Indeed, I'll suggest that they're too close to *insignificant* to count as normative inadequacies of stingy liberalism.

To my mind, Court-mandated school integration in the U.S. is a surprising choice for Haslanger's purposes. For one thing, once actually implemented, Court-mandated integration *was working* to improve education for Black children, but affirmative measures to promote school integration were too quickly abandoned. And integration was working *despite* having to work against explicitly racist policy at other levels of government and racial inequality solidified by decades of racist government at all levels.⁴⁸ We shouldn't saddle Haslanger with an implausibly strong inference from the case. But the argument clearly relies on *some* premise about the potential of governmental action to confront injustice, and it bases that premise on the failure of an isolated and half-hearted attempt to undo a wrong that government itself had spent lifetimes helping to create. The case offers little insight into what government policy *can* accomplish.

It is surely true that school integration wouldn't *suffice* to secure educational justice, even if affirmative political steps toward securing integration had persisted and even if the state and local governments had supported the goal of integrated schools. Fully racially integrated schools won't produce equal educational outcomes so long as patterns of residential segregation and racial wealth gaps persist outside of school. Suppose we read Haslanger's argument this way: Even if aggressive state action to secure school integration had persisted, residential segregation, wealth gaps, and other racial injustices outside of schools would have undermined the pursuit of

⁴⁸ See, for example, Hannah-Jones 2019; Darby and Rury 2018; Rothstein 2017. This is a point that Haslanger clearly agrees with. See, for example, Haslanger 2017, 152.

educational equality. Does this true counterfactual support any inferences about what governmental action can accomplish?

No, because *schooling* policy is not the only way that state policy affects *education*. Haslanger insists that the source of persisting educational injustice is racist culture. I think that lets racist policy off the hook too easily. Surely the source is a complicated cocktail including culture and the basic structure. Whatever the proportions, individual behaviors sustain and partly comprise racist culture, and material conditions mediate the effects of racist culture on education.⁴⁹ This matters to an assessment of stingy liberalism's normative adequacy, because the state can act to disrupt material inequalities and patterns of behavior. Zoning ordinances requiring that new housing be economically heterogenous, public investment in under-served communities, cash transfers, steep taxes on inheritance, and labor reform are just a few examples of institutional action or institutional reconfiguration that would promote educational justice in part by disrupting racialized patterns of behavior. Stingy liberalism can also call for rectification of racial educational injustice by calling for institutions to target racist culture directly: for example, through anti-racist curricula in racially integrated schools. Just as liberalism can diagnose cultural practices as calling for rectification on grounds of justice, it can normatively call for that rectification. Because racial injustice within and outside of schools sustains educational injustice, and because the state clearly has under-utilized means of eroding racial injustice within and outside of schools, even perfectly-implemented school integration wouldn't support a pessimistic conclusion about what governmental policy and institutional reconfiguration *can* accomplish. Here again, stingy liberals will disagree among themselves about what rectification is called for. But stinginess doesn't preclude calling for institutional reform to promote the values of justice, whether what impedes those values is unjust institutions

⁴⁹ See for example Posey-Maddox 2014.

or justice-impeding culture. The timeline for rectification will be different—culture takes time to change—but this presents no problem for the normative adequacy of stingy liberalism. By acting now to reform culture, we can access a more valuable span of verdictive justice in the future.

Finally, we can't forget that stingy liberals do countenance derivative individual obligations of justice: Individuals are obligated to comply with or work toward realizing just institutions. In circumstances of profound injustice, the duty to work toward realizing just institutions may directly condemn as unjust much of the racist behavior that sustains housing segregation and educational disadvantage. After all, that behavior undeniably delays the realization of just institutions. What does the duty of justice demand in circumstances of injustice when, among other things, just institutions are needed to usher in *culture* reform? Must we act *now* as a reformed culture would prescribe? That these are substantive open questions for stingy liberals shows how little normative work stinginess itself precludes.

Now consider a case Cohen uses to challenge the Rawlsian restriction of justice to the basic structure: In 1988, the ratio of top executive salaries to production worker wages was 6.5 to 1 in West Germany and 17.5 to 1 in the U.S..⁵⁰ Cohen thinks the German distribution was clearly more just. But, he argues, Rawlsian stingy liberalism cannot render that verdict, “since the smaller inequality that benefited the less well off in Germany was not a matter of law but of ethos.”⁵¹ But Cohen's case misfires in the same way that school integration misfires as an attempt to surface the inadequacies of stingy liberalism: It is simply not credible that *no legal or policy changes* could have been enacted in the U.S. to change the ratio of executive salaries to worker wages. If justice favors benefitting the least well off, as both Rawls and Cohen think it does, then

⁵⁰ Unsurprisingly, the earnings disparity in the U.S. between workers and executives has only grown worse. To consider a different measure than Cohen's: In 2020, chief executives of big companies made, on average, 320 times as much as their typical worker. In 1989, that ratio was 61 to 1. See Mishel and Kandra 2020.

⁵¹ Cohen 2008, 143

it favors the institutional arrangement that benefits the least well off *in our circumstances*. Just institutions for a society of market-maximizers might feature not only tighter regulation of markets for goods and labor or more restricted use of such markets, but also interventions for *norm reform*, such as wealth taxes or civic education, to build a culture of economic solidarity. If distributive equality or prioritizing the least well off matters for justice, then institutional reform is called for by a needlessly high ratio of executive salary to worker wage. And, in circumstances of injustice, the individual duty of justice to work toward just institutions may call on (some of) us to stop market-maximizing now, even in advance of the egalitarian social norms that more just institutions would foster.

Finally, consider stingy liberalism's normative capability with respect to gender. The liberal feminist arguments sketched in the previous chapter surface problems of justice with gender norms and cultural practices, showing that stingy liberalism can impugn those norms and practices: Gendered norms undermine social equality among citizens; they give rise to distributive inequalities that liberalism clearly condemns; and gendered patterns of behavior constrain choice in ways that frustrate interests we share as equal citizens. On these grounds, liberal feminists argue that liberalism impugns the cultural practices in question and favors policy and institutional reconfiguration to interrupt them: for example, caregiver support which incentivizes paternal caregiving and maternal labor market attachment, reform to labor markets to make jobs more flexible and to revalue female-coded work, and support for and regulation of paid caregiving. Here too, liberalism licenses state action to promote the values of justice, whether by reforming culture or more directly. And here too, the stingy liberal duty of justice may well compel individuals to act out the reformed culture *now* in order to work toward just institutions.⁵²

⁵² Schouten 2019, 138.

These three cases show that stingy liberals can address culture by licensing political action targeting the patterns of behavior that sustain it: for example, by making market-maximizing less lucrative, or encouraging gender-norm-transgression, or discouraging “white flight” that sustains racial educational injustice. Stingy liberals can also call for institutions to act on ideology directly, for example by mandating a civic education to encourage anti-racism and by preserving democratic culture. And they can invoke the duty of justice: that individuals do their share to bring just institutions about. Neither gender norms, nor *Brown*, nor salary ratios can establish that institutional reform is inadequate for securing justice, because none of these are cases in which institutional capacity has been exhausted.

Critics of stingy liberalism might insist that *non*-institutional action is a quicker or more effective path to realizing the values of justice. Stingy liberals needn’t deny this. Indeed, because they are committed to some degree of procedural democratic decision-making, they should agree that, other-things-equal, justice reform will come faster insofar as individuals are motivated to vote and agitate for it.⁵³ Similarly, critics might argue that just institutions rely upon culture reform because without culture reform, we simply cannot see certain injustices as injustices. For example, state action to address sexual harassment first required the cultural achievement of *naming* sexual harassment.⁵⁴ Stingy liberals needn’t deny this either: It is no surprise that fully just institutions would be unrealizable in a democracy absent certain cultural preconditions. We might add that such cultural achievements and developments in social ontology can equip us to perceive parts of the verdictive justice ranking that were previously opaque. Stingy liberals should welcome ideology critique because (institutional) justice will be sooner and better realized—and better theorized—with a justice-conducive culture than without it.

⁵³ Chambers 2017, 191.

⁵⁴ Thanks to Ding for raising this question and surfacing the example.

Critics of stingy liberalism might insist that institutional action is inadequate for realizing justice *even though* the cases on offer don't dispositively demonstrate that inadequacy. Haslanger punctuates her discussion of *Brown* by noting that, "at this point in time, the idea that racism is going to be dismantled by state action is no longer credible."⁵⁵ I'm not sure it ever *was* credible. But for Haslanger to have an opponent in stingy liberalism, our incredulity must target a more specific claim: Is it incredible that *justice's demands with respect to racism* flow primarily through institutional structure? With stingy liberalism as its target, Haslanger's claim might be read like this: Even if we (somehow) achieved a fully just institutional arrangement despite persisting racist culture, *that racist culture* should be deemed unjust, and justice should prescribe (non-institutional) rectification. The charge of normative or diagnostic inadequacy ultimately rests on an appeal to the intuition that theory *should enable us to do more than this*: that it should enable us to criticize more, or to prescribe more or different remediation. For stingy liberalism to be structurally inadequate is for it to be possible that we fully realize its prescriptions and exhaust its condemnations *and yet* something persists that we ought to regard and respond to as (not only immoral but) *unjust*. Let's imagine that institutions are arranged to maximally promote the values of justice in the circumstances at hand, including legitimate political means to foster justice-promoting culture. Suppose we nonetheless fall short of optimally realizing the values of justice because, though individuals *do* discharge their duty of justice to support just institutions, they don't pursue the values of justice within their space of discretion. Perhaps they choose where to live without treating the racial and economic justice implications as overridingly important factors. Does adequacy require that we diagnose this behavior or culture as *unjust*? Or is it enough to register them as *justice-impeding*? Does adequacy require that justice always ask

⁵⁵ Haslanger 2017, 152.

individuals to act in less justice-impeding ways or work to disrupt justice-impeding culture? Or is the mere diagnosis of the culture and behavior as justice-impeding enough?

I find the questions difficult to take in. Insofar as I have any intuition at all, I wouldn't use it to underpin a standard of theoretical adequacy. The suppositions take us too far from where we are, and my uncertainty about the perfectly just institutional arrangement for our circumstances leaves me ill-equipped to imaginatively make the journey. We could dispense with the stipulation, in the framing of the question, that institutions are doing all they can to promote justice. If we do, we need a different way to control for the intervening variable that undermines Haslanger's inference from school integration and Cohen's from earnings ratios: In those cases, the true intuition—*this remains unjust*—arguably is due to the fact that *institutions remain unjust* and not to the verdict that *something other than institutions must be unjust here*. Instead of stipulating that institutions are in some sense perfectly just, then, we might try to discern the *nature* of remediation called for in circumstances of institutional *injustice*: Are individuals obligated by justice to promote the values of justice directly? Or are they obligated by justice only to work (maybe quite hard) for institutional reform? We have an intuition that challenges conceptual stinginess only if we perceive individual obligations to work *directly* to promote the values of justice, only if we perceive that these are obligations *of justice*, and only if our intuition is clear enough to be treated as an *adequacy test*.

Moreover, *something* prescriptive may follow simply from the stingy liberal diagnosis of individual behavior as “justice-impeding.” When a behavior or pattern of behavior is justice-impeding, when it obstructs a more valuable range of verdictive justice, *that very fact* may give individuals reason to desist, whether or not the behavior is, on its own, morally objectionable. The fact that gender norms, market-maximizing, and patterns of residential

segregation are justice-impeding may give me a reason to defect from those patterns of behavior, even if my own continued participation would be morally innocent and certainly not unjust. This is a justice-relevant reason, even if a failure to heed it would not be unjust. And the weight of the reason plausibly depends on the extent to which the value in question is impeded: Our reason to abstain from morally permissible behavior that erodes some value of justice plausibly is stronger when that value is badly realized or when I am so situated that my individual behavior can make a significant difference.⁵⁶ Beyond my *duty of justice* to work for fairer social institutions, then, I may have *justice-relevant reasons* to act directly to further the values a just society would realize: for example, to self-tax and give to the least advantaged or to transgress gender norms even when I prefer not to.

Critics may again wonder why anyone would be caught talking this way. My use of these distinctions here is merely defensive: The distinctions enable liberals to be conceptually stingy while still doing the work that Haslanger and Cohen think state-oriented theory leaves undone. Of course, this is a *virtue* only if this is work that theory should do and only if stinginess is worth rescuing. But within this dialectic, I needn't motivate either condition. I embrace a demanding standard for substantive adequacy and argue that justice theorizing can clear that standard even when the theory retains the feature alleged to be adequacy-undermining. Still, this is a chapter addressed to the critic of stingy liberalism, and it defends stinginess by introducing distinctions that the critic might regard as fussy philosophers' distinctions. So, it's fair to ask why stinginess is worth preserving. Above we saw some of the case on the diagnostic front. What about on the normative front? Why address culture-rectification through social policy and institutional reform to begin with? And why think, in the face of racial and economic and gender injustice, that the only individual *obligations of justice* are obligations to work for institutional change?

⁵⁶ See Murphy 1998.

We've seen that stingy liberals narrowly define their question without prejudging that principles of justice apply equivalently to all social entities. They ask: What principles should guide the design of the basic institutional structure of society? And, for stingy liberals, justice does *not* apply equivalently—at least not for feminist egalitarian liberals who think that justice is demanding but that we are each more than a slave to its realization. Critics may doubt that stingy liberalism's initial question is a good one: Why single out institutions for particular examination? Stingy liberals have a compelling answer to give: Justice concerns our interests and entitlements as free and equal political persons, and when it comes to the most fundamental of those interests, we're entitled not only to have the interests protected or weighed fairly in deliberations. We're entitled too to some *assurance* that our interests will be fairly considered. The liberal orientation toward the state is justified in part by the role the state plays—the role that only the democratic state legitimately *could* play—in providing that assurance. In part *because* of the influence of ideology and culture, certain fundamental interests warrant protection backed by political power. They shouldn't depend on the informal voluntary and coordinated recognition of others. School integration provides a nice illustration. Black children are entitled to an equally good education, and they're entitled to *assurance* of an equally good education. To provide this assurance in a historically and structurally racist society, educational entitlements must be *legally* protected. The state must act to integrate schools and neighborhoods and to provide the material necessities for kids to learn well. These include nutrition, stable housing and employment opportunities, safe neighborhoods and schools, and healthcare. Presently, we fail to protect this entitlement both *legally and* as an informal social practice. But stingy liberalism's focus on the state reflects a worthy aspiration: to preserve space for all to live out a life of their own choosing and to *provide assurance* that each person's basic entitlements will be considered equally with others'.

Restricting judgments of justice to political institutions makes sense for another reason, too. The behavior of political institutions can be directed by individual agents responding to the demands of justice, and those institutions can act on culture by influencing the behavior of individual agents in turn. This puts rectification front and center, because in condemning some social practice as calling for rectification as a matter of justice, we connect our condemnation with the acts of agency that can put things right. This seemingly should be a virtue in Haslanger's eyes, for her work powerfully underlines the importance of correcting injustice: "The project [of social critique] is anti-utopian"; it acknowledges that "injustice is rampant" and that "rectification is a priority."⁵⁷ Yet, according to Haslanger:

"Culture is a proper target of critique, for culture is a crucial component of social structures; state actions alone are not sufficient to bring about social change for the better (Haslanger 2017). Social critique is also not, or not obviously, situated within ethics, narrowly construed. The question is not simply what should I do, as an individual, given my concerns with the actions of others in their personal consumption of pornography, or with actions that marginalize certain children or families. The questions are about what social norms should govern us as a community, what values we uphold, how we should live together."⁵⁸

Stingy liberals can easily ask these questions. (I think the social norms that should govern us are those conducive to our realizing verdictive justice.) But because liberal egalitarian feminists are also concerned with rectification, they are asking questions not only about what

⁵⁷ Haslanger 2020, 1.

⁵⁸ Haslanger 2020, 1.

social norms should govern us but also about *what individual agents or political institutions under the influence of individual agents ought to do to right the ship*. This includes asking what individual agents and political institutions ought to do to bring into effect the social norms that should govern us. In asking this question, liberal feminists may be cast as technocrats or aspiring philosopher queens. But even as we ask what we should do to bring about culture reform, we can affirm that such matters should be settled collectively; we can explain why that is so; and we can identify the sorts of exigent circumstances in which the value of collective self-governance gives way to other values. In contrast, it is decidedly *not* anti-utopian to ask what norms should guide us if we are not also to ask what anyone should or may do to bring those norms into being. Culture is not a normative agent the way people are. We get rectification—which *is* the priority—not only by asking what should be the case but by asking what we should do to make it so. In asking both questions, stingy liberalism is a powerful tool for justice theory and practice.

Liberalism needs ideology critique. Culture as well as individual behavior matter to the question of how well realized are the values of justice. And stingy liberals should not police the terms on which other theorists refer to ideology and behavior. But stingy liberals have reasons for taking care with these designations. To say that I am obligated *by justice* to defy gender norms in my intimate partnerships, or to send my child to the neighborhood public school, or to choose a job based on its social value rather than only on its personal value, is to say that others are entitled *by justice* to my doing those things. Some liberals think individuals should be compelled to send their children to neighborhood schools precisely on the grounds that others are entitled as a matter of justice to the social goods achieved when everyone sends their children to common schools. This is a substantive commitment of justice that brings school-shopping behavior into the purview of justice by approving institutional arrangements to restrict that

behavior. And we've seen that some liberal feminists think that gender-norm-transgressive behavior should be institutionally encouraged, even if not legally compelled. Here again we see that conceptually stingy liberals may be substantively progressive. They may fully agree with critics of liberalism about which individual behaviors should be regulated by political institutions and which of the behaviors that *aren't* so regulated are nonetheless apt for criticism in justice-rich terms. These arguments have relied on fine distinctions among justice-rich designations. But whether we carve the conceptual space as I have or in some other fashion, all of us who want to think carefully about political normativity need to track the differences these distinctions mark.

Critics of stingy liberalism assume that conceptual stinginess entails substantive incapacity. But we haven't found that incapacity where those critics thought we would or in any other likely places. Using the anatomy of justice, stingy liberals can impugn culture and individual behavior in justice-rich terms, even as they abstain from assessing (some) such behavior as *unjust* or designating (some) such behavior as *demanding by justice*. Are these abstentions nonetheless inadequacies? Maybe. Maybe at the end of the day we should abandon stinginess. But we shouldn't do it under the misguided notion that stinginess leaves us with too impoverished a set of diagnostic and normative resources to condemn or to correct for ideological culture or norm-compliant behavior. In previous work, I argued that the state may legitimately act to reform gendered cultural practices over time by incentivizing norm-transgressive behavior in the here-and-now. That is a claim about how the state ought to act to promote verdictive justice: Justice requires the intervention; the state is unjust insofar as it omits to so intervene. But I supported these claims precisely by arguing that cultural practices comprising the gendered division of labor *call for rectification as a matter of justice*, because

they obstruct our realization of the things that matter from the perspective of justice. Am I a stingy liberal? Who knows.

A stingy liberal, a moderate liberal, and a permissive liberal walk into a bar. They have a lively discussion about justice. They talk about what matters and about how we can better realize more of what matters without sacrificing some of what matters more. They talk about what is wrong and what we should do about it. They talk *to* each other rather than *past* each other. Maybe we should abandon stinginess. But if what we care about is thinking well and carefully about what is wrong and what we should do to make things better, I can't see that it matters all that much. Armed with an anatomy of justice that helps us to focus on the things that matter from the perspective of justice, we see that the theoretical cost of some liberals' focus on the basic structure has been massively overstated. The real contested space between stingy theorists and critics of stinginess is (vanishingly) smaller than the critics seem to think.

V. Liberal Feminism and the Anatomy of Justice

This book has argued that liberals should orient their theorizing and their pursuit of justice around the realization of certain values. That's what matters: that the values be realized. Political institutions affect how much those values get realized, but so do various other pieces of social machinery, including individual behavior, patterns of behavior, social norms, and cultural practices. All these things are relevant to the question of how institutions ought to be arranged, because the basic institutional structure of society is less just to the extent that it's not best arranged to realize the things that matter in light of the patterns of choice, norms, and cultural practices that characterize our society. Insofar as patterns of choice, norms, and cultural practices

obstruct realization of the things that matter, the basic structure may be less just by virtue of omitting to disrupt those patterns to realize more verdictive justice. Theorists should ask about the norms that should govern us, but we can't stop there. Insofar as we are concerned with making things better, we should care about what steps moral and political agents should take to bring about greater realization of justice both directly and by changing institutions, norms, and practices.

Armed with this picture of political normativity, we can see that Haslanger's criticism of state-oriented normative political theory fails on its own terms. For all she says, liberal egalitarian feminism can be conceptually stingy and still provide a theoretical underpinning for the critical claims she wants to issue and the normative claims to which she seems committed. This comes as little surprise, since liberal egalitarian feminists have written extensively about just the bits of culture Haslanger spotlights, including the "social norms, the formation of gender identity, and the socialization of individuals through particular practices of intimacy, sexuality, parenting, and economic cooperation."⁵⁹

If stingy liberalism has all the diagnostic and normative capability I have claimed for it, then feminist opponents of liberalism should abandon non-specific complaints to the effect that liberalism or mainstream normative political theorizing is too state-oriented, and instead examine the particular substantive verdicts issued by its various contemporary liberal feminist formulations. Liberal feminists' arguments can stand as possibility proof that liberalism's feminist potential is not undermined by that theory's most conspicuous and most widely derided commitments. Meanwhile, Haslanger's work on ideology can fuel productive internal critique for liberal feminism. That critique supports theorizing justice within a framework like the anatomy of justice I'm forwarding in this book.

⁵⁹ Haslanger 2020, 8.

INTRODUCTION

This book argues for a reorientation in liberal egalitarian theorizing about justice. I argue that the orientation I propose supports compelling resolutions to longstanding disputes and difficulties internal to egalitarianism and compelling defenses of liberalism against feminist and egalitarian critics.

On the orthodox approach, a theory of liberal egalitarian justice comprises a set of *normative principles* to guide the design and workings of social institutions. Normative principles purport to tell us what we should do, even if only defeasibly or in particular circumstances. For example, John Rawls's normative principles of justice tell us that in relatively favorable circumstances, when citizens are generally motivated to act rightly, we should design basic political institutions so that, working together, those institutions protect basic liberties, ensure equal opportunities in competitions for advantageous social positions, and ensure that any advantages attached to particular social positions work to the benefit of those who are least well off within the institutional scheme. Following Rawls, many think of these normative principles as realizing liberal egalitarian *ideals*. Whereas normative principles tell us what we should do, ideals capture what we aim to attain by so doing. By arranging political institutions to comply with Rawlsian principles of justice, for example, we might aim to achieve *fairness* and *political equality*.

At the least ambitious level of description, my proposal is to redirect the flow of theoretical attention to the ideals that liberal egalitarian principles of justice aim to realize. My approach is decidedly *not* idealistic, so to avoid being misread in that direction, I'll generally refer to liberal egalitarian ideals as "values." By "values" (or "ideals"), I mean to refer to the

things that matter. Among the things that matter to egalitarians, for example, are civic relationships of a certain character and fair distributions of social goods. Though we'll see that it has substantive implications for our thinking about justice, this redirection on its own is purely methodological. I am not arguing that justice is consequentialist. I simply propose that those thinking about justice should take a longer look at the things that matter, aiming to discern the relative moral importance of those things that matter and the kinds of reasons they generate, before we turn to the work of systematizing answers to these questions in the form of normative principles. In a slogan: Rather than *normative principles*, our theorizing should principally aim to produce *evaluative discernment*. This book sets out a framework for doing just that. Call that framework “the schema.”

But the redirecting of attention is only part of the reorientation I want to propose. My proposal is for the schema in harness with a substantive way of filling it out: a partial set of liberal egalitarian values, or things that matter, and a ranking of the moral importance of those things. I argue that the proposed combination of schema and values—call it “the anatomy” of justice—constitutes an appealing approach to theorizing liberal egalitarian justice. It resolves difficulties internal to liberal egalitarianism; in part by resolving those difficulties it shows liberal egalitarian theorizing to be helpfully action guiding in circumstances of injustice; and it supports answers to feminist and egalitarian criticisms of liberalism.

My case for the anatomy's value with respect to disputes internal to liberal egalitarianism draws on two sets of considerations. First, I engage the longstanding dispute among egalitarians about whether equality is fundamentally a relational or a distributive value. The anatomy partially deflates that dispute by accommodating the increasingly common conviction that relational and distributive equality *both* matter, each in its own right. I argue that it is a mark in

favor of the anatomy that it incorporates both distributive and relational egalitarian concerns and sets a principled and plausible priority relation among them. The second set of considerations that supports the anatomy from within liberal egalitarianism involves another longstanding dispute among egalitarians: the dispute about the *concept* of justice, between those who think justice just means fair shares (but that we sometimes have most reason *not* to pursue it because other things matter politically) and those who think justice is a complex concept that incorporates multiple distinct things that matter politically (and that we always or nearly always ought to pursue it). With respect to that dispute, too, the anatomy underpins a pluralist picture: Liberal egalitarian justice theorizing should employ both a pure concept of justice as fair shares *and* a broader concept of justice that encompasses additional normative considerations to more directly inform normative political judgments.

A second and related part of the case in support of the anatomy concerns its guidance for addressing injustice. By attending to and precisifying the things that matter, the anatomy supports a unified liberal egalitarianism that *could* be developed to describe the ideally just society, but that also, and more importantly, provides guidance for improving a highly *unjust* society. That's because the very same values that are optimally realized in a just society also provide guidance in circumstances of profound injustice. The normative principles these values issue may vary with circumstances, but these various, circumstance-dependent principles are underpinned by the single set of values, and we can theorize those values so as to render them at once concretely action-guiding and applicable across circumstances. Because the anatomy offers a modular framework for theorizing justice across a wide range of (just and) unjust circumstances, it is more broadly and concretely helpful than normative political theorizing is often thought to be.

Finally, the anatomy I propose is valuable for underpinning compelling defenses against criticisms of liberalism from the left. These criticisms allege that foundational commitments of liberal justice theorizing render it inadequately responsive to injustice and inadequately permissive in licensing structural reform. I consider two criticisms, both longstanding charges against liberalism and both given new life in recent work by Sally Haslanger. First is the charge that liberalism's theoretical focus on the state renders it unable to address unjust culture; second is the charge that liberalism's method of moral justification renders it inadequately responsive to the empirics of existing social injustice and the wisdom of social movements. In both cases, I grant the foundational commitments attributed to liberalism—its state focus and its method of moral justification—but argue that those commitments don't have the alleged liabilities. Even if it focuses on the state, liberalism *can* adequately address unjust culture; and despite its method of moral justification, liberalism *can* respond adequately to the empirical nuance of existing injustice. In each case, my defense of liberalism draws on the liberal anatomy of justice I'm advancing.

Together, these three sets of arguments make a case for the anatomy of justice. More importantly, they make the case that liberal theorizing can help us think well and fruitfully about the injustices we confront. To many ears, terms like “left liberalism,” “radical liberalism,” “liberal egalitarianism,” and “feminist liberalism,” sound oxymoronic. To other ears, such terms simply ring hollow, as theoretical exercises that offer little guidance in the face of injustice, or, worse, as theoretical exercises that offer the *wrong* guidance, because normative political insights

shouldn't come from a seminar room.¹ This book undertakes to show that liberal egalitarianism is viable and moreover that it is *valuable* for progressive politics. I do not shy away from the Rawlsian tradition that has become so unfashionable. Instead, I draw on the raw materials of that tradition, on what I take to be the fundamental, definitive commitments of liberal egalitarianism, and I assemble them in a way that lets them speak to the injustices we confront. Nor do I shy away from the methodology of analytical, broadly normative theorizing about justice. Instead, I show that normative theorizing is indispensable, including when it draws insights from, and when it counsels deference to, the boots on the ground. In short, I defend the anatomy of justice—and with it, the radical potential of liberal theorizing generally—by letting it flex its muscles.

I. Outline of the Case

In chapter one, “Two Pluralisms about Justice,” I present the anatomy as a pluralist accommodation of two longstanding debates in political philosophy: a debate about the *concept* of justice and a debate about its *substance*. On the conceptual front, John Rawls and G.A. Cohen are flag-bearers for the opposing camps. Cohen sees justice as an input into the question of what

¹ Here, I'm here understanding “normative” broadly to include the kind of evaluative theorizing I do in this book. The terminology on offer is not ideal for my purposes. Because I judge it the least bad and most intuitive option, I use “normative” in two distinct ways depending on whether I'm using it to modify principles narrowly or theorizing broadly. For the narrow use of “normative,” to modify principles as exemplified by Rawls's normative principles of justice, I might instead have used “prescriptive” or “deontic.” But “prescriptive” sounds *too* narrow, as if implementing Rawls's principles were a matter of following simple instructions, and “deontic” sounds too substantive, as if I were defending a consequentialist picture of justice in opposition to Rawlsian deontological principles. And they both sound too technical for what I take myself to be doing. The broader use of “normative” is used to encompass narrowly normative principles as well as evaluative discernment I want to redirect our energies toward, and to contrast both with, for example, critical social theory or social ontology. For this, I might instead have used “political philosophy,” but that risks suggesting I think critical theory and social ontology either aren't philosophy or aren't political. Or I might have used “philosophy in the Rawlsian tradition,” but that is too narrow. Generally, context will make clear whether I mean normative *principles* in contrast with evaluative discernment, or normative *theory* to include evaluative discernment. When context doesn't clarify, I will do so explicitly.

we ought to do, politically speaking, and thinks that the justice input may have to be balanced against other considerations, like stability or efficiency.² On this way of thinking, we might sometimes have most reason *not* to pursue justice, for example because our circumstances are such that the measures necessary to pursue justice would be illegitimate, or too inefficient, or would make some worse off to nobody's gain. For Rawls, in contrast, justice is (closer to) an all-things-considered assessment of how political institutions ought to be arranged, which already incorporates those other considerations.³ I think normative political theorizing needs *both* a pure “aspirational” concept of justice as fair shares *and* a more-things-considered “verdictive” concept that orders fair shares and other value inputs.

On the substantive front is the debate between relational and distributive egalitarians. On Elizabeth Anderson's formulation, this is a disagreement about “how to conceive of equality: as an equal distribution of non-relational goods among individuals, or as a kind of social relation between persons—an equality of authority, status, or standing.”⁴ I join a growing camp who think that distributive and relational equality *both* matter, and each in its own right. The anatomy of justice casts distributive egalitarianism as an account of fair shares, or aspirational justice, and it casts the relationally egalitarian value of mutual respect as an account of legitimacy.

Legitimacy concerns the constraints we must abide by as we arrange the political institutions that set the terms on which we all will live cooperatively, or, within those institutions, as we seek collective political solutions to our shared social problems. Suppose you and I agree about what kind of social arrangement would be most just, or about how to remedy a particular injustice we confront. Suppose we're right, and we *know* we're right. And suppose we have the capacity to bring about the just arrangement or remediation. May we do it? Suppose others disagree with us;

² Cohen 2008.

³ Rawls 1999; 1993.

⁴ Anderson 2010; see also 1999.

and, although they're wrong, they have good reasons for believing as they do. Liberal legitimacy describes the permissible uses of political arrangements and political interventions to make things just or less unjust given that we will inevitably reasonably disagree about what justice is, about which current features of our society are *unjust*, about which injustices take priority, and about the costs we should be willing to incur to make things better.

On the anatomy of justice, legitimacy adjudicates aspirational justice and all other value inputs into verdictive justice. Because on my substantive account of the things that matter, the relationally egalitarian value of mutual respect is the ideal that underpins the constraints of legitimacy, the anatomy is a version of “public reasons liberalism”: a liberalism on which the legitimacy of some political action or political arrangement depends upon that action or arrangement being justifiable to reasonable citizens on the basis of reasons they can accept.

[INSERT FIGURE 0.1 HERE].

One challenge for values pluralists is to explain how a plurality of mutually irreducible values can underpin rational choice or provide practical normative guidance. This challenge evidently led Cohen and Rawls to agree on at least this much: We can't *both* theorize justice at the level of plural fundamental political values *and* have a theory that provides genuine and principled action guidance. We apparently can have at most one of these, because irreducible value plurality apparently entails that no metric exists by way of which we can weight distinct values within that plurality. Without such a metric, we apparently are forced into intuitionism or an ad hoc ranking, or we cannot rank the values at all. My book tackles a first-order normative project: describing and defending the anatomy of justice. I'll for the most part set aside the work

of filling in the moral metaphysics that underlies it. But because so much of my argument relies on the relative moral weightiness of mutual respect relative to aspirational social values, I'll need to make the case that priority rankings *are possible* among irreducibly plural values—that we can avoid the route taken by some prominent defenders of values pluralism, which is to accept that the evaluative facts radically underdetermine what we ought to do.⁵ In its final section, chapter one makes that case.

The overarching aim of chapters two, three, and four is to show that the anatomy locates the value of relational equality and the value of distributive equality in a way that can appeal to proponents of both, that is plausible in its own right, and that furnishes practically useful action guidance. Chapter two, “Distributive Equality as Aspirational Justice,” makes the case for distributive equality as an account of aspirational justice. It aims to convince relational egalitarians—who defend relational equality as the *sole* requirement of justice—not to reject the anatomy just because distributive equality is an irreducible part of it.⁶ I make this case by defending responsibility-sensitive, or so-called “luck” egalitarian, distributive equality.⁷ The chapter is structured as a response to some longstanding⁸ and some more recent⁹ objections to luck egalitarianism as a theory of justice. I argue that distinguishing luck egalitarianism as an account of aspirational justice within the conceptual picture I endorse enables luck egalitarians to answer objections, including by giving more content to answers already on offer based in values pluralism.¹⁰ The anatomy equips us to defend a theory thought by many to be defective, without sacrificing what that theory's defenders rightly insist it gets right: its strong condemnation of distributive inequality.

⁵ See, for example, Berlin 2013, 11; Raz 1999, 100.

⁶ Anderson 1999, 1; Scheffler 2003.

⁷ See Anderson 1999.

⁸ Anderson 1999; 2010.

⁹ Fishkin 2014.

¹⁰ Temkin 2003; Voigt 2007; Stemplowska 2009; Huzum 2011.

In effect, chapter two will have argued toward relational egalitarians that they should accept the presence of distributive egalitarianism in the anatomy of justice because the role distributive equality plays is securely contained. That argument casts mutual respect, the value at the heart of relationally egalitarian legitimacy, as a trumping value that constrains the force of other values to bear on the judgments of verdictive justice. This means that, when pursuing distributive equality or any other aspirational value comes at a cost to legitimacy, that pursuit always leads to a less valuable social arrangement on the whole, no matter the magnitudes of the gain or loss in question. Many theorists find lexical or trumping value relations deeply implausible. Indeed, many find it “more than a little mad” that any one consideration could have such priority that its presence always makes a state of affairs better in whole, no matter the loss in terms of other considerations.¹¹ The task of chapter three, “The Distributive Demands of Mutual Respect,” is to make the case for the lexical priority of relational equality over distributive equality. I argue that the lexical priority ranking in the anatomy, unlike the one we find in Rawls, is intuitively plausible and extensionally adequate. This is because the lexically prior value of mutual respect is complex and multi-faceted, extensionally *seconding* a lot of the reasons independently furnished by aspirational values. I make this case about distributive equality in particular: Relationally egalitarian legitimacy is robustly distributively egalitarian, even more so than has so far been recognized. Because mutual respect cares about distributive equality as such, casting mutual respect as lexically prior does not implausibly subordinate distributive equality.

Chapter two will have defended a distributive egalitarian account of fair shares by emphasizing its position as a lexically subordinate value consideration, outweighed by any concern of the lexically primary value mutual respect. Chapter three will have defended the

¹¹ Goodin 1995.

lexical priority of relational egalitarian legitimacy over distributive egalitarian aspirational justice largely by arguing that mutual respect is *itself* substantively very distributively egalitarian. This can all make the distributive egalitarian suspect that her favored version of equality does no real work within the anatomy of justice. In chapter four, “Relational Equality as Legitimacy,” I argue that the anatomy of justice enables us to redeem the surpassing political importance of relational equality *without* unduly eclipsing the distributive egalitarian commitment to mitigating unearned disadvantage as a source of reasons of justice in its own right. I do this by describing two ways in which distributive equality can “speak up” even from within its lexically subordinated role. First, mutual respect *allows* the political pursuit of distributive equality to a greater degree than it *demand*s, so distributive egalitarianism can direct us to go further toward equality than legitimacy requires us to do. Second, the anatomy shows how considerations of fairness can remain practically salient even when legitimacy forbids acting on them. Distributive egalitarians who are open to hybrid or pluralist accounts of justice should find that mine affords a plausible role to distributive equality.¹² More broadly, the argument of chapter four describes how the *true* demands of justice can weigh in political deliberation and action even when legitimacy precludes acting on those demands as such—for example, when citizens reject the true account of justice as overly demanding, and when that account therefore cannot supply shared reasons that legitimize political action in pursuit of its realization.

Chapter five, “Values Tradeoffs under Injustice: The Feminist Debate over Basic Income,” shows that the anatomy can provide plausible and illuminating guidance for policy in circumstances of injustice. I make this case by considering a values tradeoff case of particular concern for feminists: Universal basic income would materially benefit disadvantaged citizens, who are disproportionately women. On these grounds, feminists should welcome it. But basic

¹² Moles and Parr 2019; Lippert-Rasmussen 2015; Wolff 1998.

income is also likely to lessen women's attachment to paid labor, because it will enable more of them to afford to prioritize caregiving. And more women prioritizing caregiving at a cost to their paid labor attachment will reinforce norms associating women with caregiving. On *these* grounds, feminists seem to have reason to *resist* basic income.¹³ I consider the feminist debate over basic income as a case study illustrating how the anatomy I endorse adjudicates tradeoffs among social aims that liberal egalitarian feminists ought to endorse, in light of the fact that unjust circumstances can place those aims at odds with one another. In previous work, I have argued that the gendered division of labor is best diagnosed as a problem of legitimacy, rather than a problem of distributive justice.¹⁴ If considerations of legitimacy constrain what we may do in pursuit of distributive justice, as they do on the anatomy I advance, then a diagnosis of the gendered division of labor as a problem of legitimacy may seem to strongly subordinate the goal of distributive justice to the goal of gender equality. This would be a problematic consequence, and this lurking worry resonates with the charge that liberal egalitarianism is inadequately responsive to intersecting injustices. In response, I deny that the anatomy implausibly subordinates distributive equality to gender equality and show that it underpins nuanced, plausible, and context-responsive judgments regarding the values tradeoff in question.

Chapters six and seven consider two lines of criticism against liberal theorizing of the sort this book exemplifies. In recent work, Sally Haslanger criticizes “mainstream political philosophy” for its focus on the state as the primary subject matter of justice and for its methodology of reflective equilibrium for theorizing about justice.¹⁵ Using the anatomy of justice to illustrate the capacities of “mainstream” political philosophy, I defend against these criticisms.

¹³ For contributions to this debate see Baker 2008; Bergmann 2004; Elgarte 2008; Gheaus 2008; Robeyns 2001; Orloff 2013.

¹⁴ Schouten 2019.

¹⁵ Haslanger 2017; 2021; 2020.

My defenses embrace the features of theorizing that Haslanger disparages and defend them against Haslanger's charges: Neither a focus on the state as the primary subject of justice nor a methodology of reflective equilibrium undermine the adequacy of the anatomy of justice, and any inadequacies with the "mainstream" generally must be found elsewhere.

In chapter six, "Liberalism, Culture, and the Subject Matter of Justice," I take up the first of these charges. Haslanger argues that a focus on the state renders theorizing inadequate for critiquing ideological culture. I distinguish two challenges. The first is to liberalism's *diagnostic* adequacy: Does liberalism's focus on the state as a subject of justice prevent it from impugning ideological culture in plausible ways? The second is to liberalism's *rectificatory* adequacy: Does liberalism's focus on the state render it impotent to prescribe plausible rectification for ideological culture? I acknowledge that certain versions of liberalism *do* lack the capacity to call culture unjust and to issue certain demands of justice that apply directly to individuals. But I argue that this limitation is well-motivated and substantively not very restrictive. Moreover, I argue, the anatomy of justice enables us to see how liberals can impugn culture in justice-rich terms by observing that culture erodes the values that just institutions are arranged to realize.

In chapter seven, "Reflective Equilibrium and Social Critique," I address Haslanger's second criticism: that the methodology of mainstream political philosophy renders it inadequate for addressing (sexist) ideology. Haslanger argues that the methodology cannot underpin adequately contextualized social critique and cannot incorporate the wisdom of social movements. Drawing on the anatomy of justice, I argue that the methodology in question *can* supply context-responsive normative guidance and *can* incorporate insights from social movements. I show that Haslanger's case to the contrary owes to a mischaracterization of the methodology and an underappreciation of its capacity for incorporating diverse kinds of evidence

about injustice. The anatomy of justice constitutes a feminist egalitarian liberalism that withstands prominent objections from the left. If sound, my case for that anatomy undermines categorical rejections of liberalism as overly status quo biased and shows that liberalism's feminist and egalitarian potential is not undermined by some of liberalism's most derided, most emblematic commitments.

In whole, my case for the anatomy rests on its theoretical and practical usefulness. The anatomy is *theoretically* useful because it supports intuitively compelling resolutions to longstanding difficulties in political philosophy, in large part by deflating longstanding disputes: Distributive equality and relational equality *both* matter as fundamental values. We need *both* a pure concept of justice as fair shares and a more-things-considered concept of justice that can inform judgments about what we should do politically in our circumstances. The anatomy is *practically* useful because it furnishes action guidance across circumstances of injustice that's appropriately responsive to interacting and mutually supporting injustices along lines of economic inequality, race, and gender. It unifies judgments about what a just society looks like in our circumstances with judgments about what steps we should take now to make things better. It clarifies ideals of justice, illuminates shortcomings, and calls for radical corrective reform. And by doing all *that*, the theory underpins satisfying answers to criticisms from the left. Although some liberalisms may be undermined by those criticisms, *liberalism as such* is not ill-fit to support radical social critique. The anatomy of justice shows this by doing what critics claim mainstream (liberal) theorizing cannot do: recognizing and impugning injustice and calling for structural change to confront it.

In short, this book makes the case for the anatomy of justice simply by describing it and exploring the things it enables us to say and do. Because these are things that we should want to

be able to say and do using normative political theorizing, I think this constitutes a strong case that the anatomy merits consideration, both from liberal egalitarians and from egalitarian and feminist critics of liberalism. Rather than to settle any of the particular debates I consider in light of the anatomy, I hope to nudge an ongoing conversation in a new direction. I think the new direction can be a fruitful one. It enables us to see that many ongoing debates within liberal egalitarianism are overblown, and that different camps' cherished convictions about justice can be explored and developed non-oppositionally. And it enables us to glimpse possibilities for fruitful engagement between liberal egalitarians and liberalism's egalitarian critics—both oppositional engagement that may previously have seemed futile, and collaborative engagement in cases wherein distinct but non-oppositional inquiries might prove mutually illuminating.

If you feel adequately well introduced to the project, you can now proceed to chapter one. If you have lingering questions about my (mis)use of Rawls or about the mainstream-critical and Rawls-critical audience I'm hoping to engage, the final two sections of this introduction might hold the answers.

II. How Mainstream? How Rawlsian?

The ideals that feature in the anatomy are clearly liberal and recognizably Rawlsian. They include the values embodied by the two principles of justice and the values emphasized in Rawls's later development of justice as fairness as a public reasons liberalism.¹⁶ Some readers of this book have found in the anatomy a mere repackaging of Rawls's theory; they think this mere repackaging does little more than show that Rawls all along had the resources to move beyond ideal theory. Other readers reject my claimed affinities with Rawls, arguing that I'm distorting

¹⁶ Rawls 1993

the raw materials I claim to find in Rawlsian public reasons liberalism and understating my departure from it. I am open to the possibility that one (both?) of these charges is apt. My interest is in securing the practical upshots and the theoretical gains that can be had by looking at things as I propose we do. My use of Rawls is friendly but mostly utilitarian. My aim is not to defend Rawls's theory, though I'm not opposed to a defense being drawn from my arguments and I think certainly a defense of the *usefulness* of Rawls's work is there ready to be drawn. I invoke Rawls throughout this book mostly because he serves as a touchstone for the various debates I use the anatomy of justice to (re)consider and because many readers will better understand how I propose to see things by comparing my vision with Rawls's. This section offers a preview which such readers may find clarifying. It outlines some of the ways in which my way of seeing things differs from—though is not necessarily much at odds with—the ways in which Rawls oriented our attention. (For readers who *don't* find this clarifying, I aim for the book's main argument to presuppose no deep knowledge of Rawls.)

Most significantly, I want to propose that we can get more bang for the theoretical buck by focusing our attention on a different and earlier span in the range of normative inferences. Rawls thinks about *what we should do* politically—about how we should arrange our political institutions. In contrast, I focus on *what value considerations should inform* what we do politically—on what goods we should arrange institutions to realize. For example, whereas Rawls defends a theory of justice that tells us that a just society must protect basic liberties above all else, I propose to think about the value that underpins the moral urgency of prescriptions like the one the basic liberties principle encompasses: Protections for the basic liberties matter quite a lot because *mutual civic respect* and *political equality* matter quite a lot.

Looking back at the picture of the anatomy above, imagine an additional arrow in the top right-hand corner. Imagine that this arrow begins at the top part of the verdictive justice box and reaches rightward into a new imaginary box added off to the right, labeled “normative principles of justice under persistent full compliance.” Imagine that this box contains the principles derivable from the anatomy of justice that apply to the very most favorable range of circumstances—namely, circumstances of present full compliance and with no history of injustice that limits the extent to which we can now realize the values of justice. We’ll see that verdictive justice as I understand it is an *evaluative assessment*. It orders the political values that a social arrangement might realize so that we can discern of some arrangement how good it is by the lights of those values. From my account of verdictive justice, it is open to someone to argue that Rawlsian justice as fairness comprises the *normative principles* most fit to regulate a society under favorable circumstances and full compliance—that justice as fairness belongs in the new box we just imagined. But my focus is on verdictive justice itself, and on what it can do for us even without us needing to work out what normative principles it supports under what kinds of circumstances.

The substantive implications of focusing on evaluative assessment are significant. For one thing, when we theorize justice as a framework of things that matter rather than as a set of normative principles for realizing those things, we can render theory robust across a wider range of circumstances. To illustrate, consider Rawlsian fair equality of opportunity, which calls for our prospects for attaining desirable social positions to be unaffected by race or social class. In circumstances of deep injustice, *the value* of fair equal opportunity plausibly calls for radically progressive educational practices, affirmative hiring practices, and strict regulation of inheritance and bequest, just for a start. After all, we won’t reach a point at which our prospects for attaining

desirable positions are unaffected by our race or social class if we don't correct for the mechanisms by way of which race and class currently do influence our prospects. But in more just circumstances, that same value might call only for anti-discrimination protections. If fair equal opportunity is theorized as a value, then a social arrangement is always less good, other things equal, insofar as that arrangement tolerates unequal opportunities. But what the value tells us *to do* depends on the nature of the inequalities in question. Understood as a value or a thing that matters, fair equality of opportunity issues unified but distinct guidance across relevantly different circumstances.

Now notice a second substantive implication of the shift in focus from normative principles to the value considerations that underpin them: This shift enables us to make progress and gain clarity about the relationships among the various things that matter; indeed, it enables us to see that theorizing justice as a set of normative principles actively obscures important possibilities about how various things that matter might relate. For example, Rawlsian lexical priority is notoriously implausible: Roughly speaking, it is notoriously implausible that protecting basic liberties is *always* more important than achieving distributive fairness. But we *might* be able to countenance a lexical priority relation *among the values* that underpin the principles. I'll argue that lexical priority among values is consistent with a nuanced, principled, and context-responsive relationship among the normative principles those values underpin.

A second point of departure from Rawlsian orthodoxy makes the substantive divergence seem more significant. Among the alternative (types of) theories of justice to which Rawls opposes his own principles, utilitarianism features most prominently. Second comes intuitionism. Rawls defines intuitionism as a form of values pluralism which includes “no explicit method, no priority rules, for weighing these principles against one another: we are simply to strike a balance

by intuition, by what seems to us most nearly right.”¹⁷ The anatomy of justice is a political values pluralism that *does* include priority rankings. Rawls rejects intuitionism on the grounds that intuitionism helps us not at all in the ubiquitous cases of values tradeoffs. But he never explicitly raises the possibility of a *non*-intuitionist values pluralism, despite the facts that his own principles aim to *realize values* and that his ranking of principles plausibly is underpinned by the unequal moral importance of the values those principles realize. Seen from this angle, the anatomy of justice appears to be a substantive alternative to Rawls’s theory, though we agree a lot with respect to the things that matter. Arguably, mine is an approach to theorizing justice that Rawls didn’t address as a contender: a non-intuitionist political values pluralism.¹⁸

To illuminate the contrast, note that Rawls’s original position argument, by his lights, yields a different type of principles for institutions than for individuals. On the institutional front, we’ve seen, the original position argument yields all-things-considered normative principles meant to guide the design of political institutions. On the individual front, Rawls claims that the output of the original position argument is a set of *prima facie* duties, which we thereafter have to weigh and balance in cases of conflict.¹⁹ He never gives a reason, that I can find, for why we can derive all-things-considered principles for institutions but only *prima facie* principles for individuals. But it is significant that his discussion of civil disobedience in the context of individuals’ duty of justice comprises his only extended work on non-ideal theory in *Theory of Justice*. Because he theorizes individuals’ duties of justice as *prima facie* duties, or sets of defeasible reasons that derive from certain value commitments, Rawls is better equipped in the case of individual duties to apply his theorizing across a wider range of circumstances. For

¹⁷ Rawls 1999, 30.

¹⁸ What Rawls called “intuitionism,” Cohen called “radical pluralism.” The “radical” part comes from the lack of method for weighting principles in cases of conflict. Accordingly, understood in Cohen’s terms, what I aim to stake out is a *non*-radical pluralism (which imposes substantively radical demands for reform). See Cohen 2008, 4–5.

¹⁹ See for example Rawls 1999, 308.

example, the same considerations that tell us why we should generally support just institutions also tell us how *unjust* institutions may become and still morally compel us. I propose to construe a theory of justice for institutions on the model Rawls employs when he turns to principles for individuals. I won't employ the constructivist device of the original position, but the values I endorse overlap with those that justify its design features and that show up in the Rawlsian strand of public reasons liberalism—hereafter “political liberalism”—to regulate legitimate political action. The values of mutual respect and fairness feature especially prominently in the anatomy I endorse.

I see the anatomy of justice as a political liberal egalitarianism that is Rawlsian in spirit and that owes a very great deal to Rawls's work, but that departs in practically and theoretically significant ways from justice as fairness. Maybe at the end of the day I'm merely repackaging justice as fairness, or maybe I'm departing from it more significantly than I advertise. I'm interested in having that conversation and will continue having it with those who are likewise interested. But in this book, I'll focus instead on what we can do with the anatomy of justice, setting aside the question of just how Rawlsian the anatomy is.

III. How Feminist? How Egalitarian?

This book is congenial to the critical reader who wishes political philosophers would stop litigating textual questions about what Rawls said or what he meant. I litigate such questions rarely, only when I think the litigation helps us better understand the content of justice. But a different kind of critical reader, tired not only of talk about Rawls but of theorizing justice in left liberal, Rawlsian terms, may find her patience tested. I ask this reader to bear with me. This book

is written largely *for her*. I think that she and I share some important political convictions, and I think the tradition I'm working in does more for us than she thinks it does. I want to try to persuade her of this. In my view, Rawls *did* correctly discern fundamental political values: Reciprocity matters. Democratic governance based on our status as free and equal matters. The interests of the most vulnerable among us matter. These observations alone seem to defuse a lot of what masquerades as criticism of Rawlsian liberalism. For instance, Nancy Fraser wrote in 2001 that “the central political question of the day” is “how can we develop a coherent orientation that integrates redistribution and recognition.”²⁰ On this count, she found Rawlsian liberalism lacking. But Rawls's theory is a coherent integration of just those evaluative considerations; as others have pointed out, it is a mistake to construe Rawls as offering only a theory of *distributive* justice.²¹ My reorientation of liberalism does stick close to the parts of Rawls's view that provide foundation for not only a coherent but a *compelling* answer to the still-central question Fraser posed. But when we try to build out the values of justice *before* encoding them in normative principles, including especially building out a view about the relative weightiness of those values, we get a theory that looks importantly different than Rawls's. And the differences prove crucial to answering some of the more persistent challenges to liberalism.

The objections I consider are motivated largely by the thought that liberalism isn't helpful—indeed, in some cases, by the thought that it is downright *inimical*—to progressive social movements. I come at this challenge primarily from the direction of liberalism's feminist critics, drawing the substance of the criticisms largely from recent work by Sally Haslanger. I'll consider Haslanger's criticisms of “mainstream political philosophy” and argue that my proposed

²⁰ Fraser 2001, 38.

²¹ See for example Robeyns 2003.

anatomy of justice is not undermined by them. To the contrary, my proposed approach to theorizing liberal egalitarian justice can underpin a feminism that is emancipatory and appropriately responsive to the intersections of gender injustice with racial and economic injustice. I make the case both by refuting arguments to the contrary conclusion and by demonstration: Because this book draws on the tools and answers the questions that typify mainstream political philosophy, and because it uses those tools to defend answers that critics allege are inaccessible by way of the tools in question, the book constitutes a defense of the tools and questions themselves.²²

On Haslanger’s characterization, we’ll see, “mainstream political philosophy” undertakes to develop and apply theory that can provide guidance about justice across contexts: It attempts to refine theory as a set of tools that we can use to discern and rectify injustice under various circumstances. To that end, it employs certain kinds of abstractions. It proceeds in part by testing tools against problems that we already know how to solve: In these “test” cases, we know what a theory of justice should say is unjust or what it should tell us to do about it; we know what a good tool will do. *Everyone* who wants to think carefully about right and wrong employs test cases in some way. So far, we have parity between mainstream theorizing and its detractors. But in allowing that the tools we need may be complex and need fine-tuning, mainstream theorizing goes further. If a tool seems good but imperfect, we might try to adjust it before we discard it. And if we’re still trying to figure out whether it’s ready to go, we might test it in complex ways:

²² In some cases, I draw on my previous work and other liberal feminist scholarship to serve as further evidence that “mainstream” tools and questions can accomplish just what their detractors deny they can do. I see *The Anatomy of Justice* as a natural extension of my first book, *Liberalism, Neutrality, and the Gendered Division of Labor* (Schouten 2019). That book argued that progressive social policies aimed at eroding the gendered division of labor constitute legitimate exercises of political power, even though those policies undertake to change social norms by burdening some reasonable choices individuals make about how to configure their domestic lives. I made the case by grounding a certain vision of gender equality on the complex value of mutual respect, which I argued is the core value at the heart of liberal democratic legitimacy. *The Anatomy of Justice* undertakes a further exploration of that value and situates it within a broader framework for theorizing justice. The anatomy thus undergirds my earlier work, and the earlier work in turn joins some of the arguments of this book to illustrate the anatomy’s implications.

Sure, this tool did pretty well on this job, but what if the contraption needing repaired had a little more rust *right there*? Would it still have worked? What if our circumstances changed in this foreseeable way or that? Will the tool still do the job? The tool metaphor illustrates one way in which this book is an instance of mainstream political philosophy, and one way in which that positions it to address methodological criticism of mainstream political philosophy: Because its methodology often relies on projections about how theory will fare under a wide range of circumstances, the argument of this book inherits mainstream political philosophy's appearance, to some, as being overly abstract and disengaged.

But its methodology isn't the only thing that makes the book "mainstream." Its aspiration and the particular tools it seeks to refine and employ also play a role. The book aspires to shed light on the moral domain. It doesn't assume that all the answers, or indeed *any* of the answers, will be settled by the verdicts rendered by democratic processes or by the claims advanced by social movements. This is what can make mainstream political philosophy seem elitist, anti-democratic, technocratic. The particular tools the book works to refine are the tools of feminist liberal egalitarianism. In making its refinements, it draws on the contributions of the *quintessential* mainstream thinker of contemporary political philosophy, John Rawls. This is what can make mainstream political theorizing seem hegemonic, exclusive, campy.

I thus draw liberally on Haslanger's attempted takedown of mainstream political philosophy because it captures and gives credibility to something heavy in the air: the sense that analytic, normative political philosophy in the post-Rawlsian tradition is disengaged, elitist, hegemonic. There is a current mood of antipathy toward anything that smacks of Rawls, of liberalism, of orthodoxy. Insofar as that mood manifests the desire to see things done in more and different ways, I'm all for it. We should continue the move, already well underway, to disrupt the

hegemony of post-Rawlsian liberalism. Indeed, I'll argue that the "mainstream" methodology Haslanger criticizes directs normative theorists to be in deep conversation with those who use different methodologies to address different kinds of questions. But insofar as the mood manifests the desire to move away not only from the *hegemony* of mainstream or Rawlsian liberalism but from *mainstream or Rawlsian liberalism itself*, I think it's misguided. That is the case that I hope to make through deep engagement with an influential spokesperson for these criticisms.