

Justice and Freedom: A Cooperative Venture for Mutual Advantage

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1. Philosophical thinking about human life

Philosophers are enthusiastic about big questions that people have thought about for a long time, at least four thousand years, and probably as long as humans could formulate thoughts. These are questions that children are also often good at formulating: why is there something rather than nothing? What, if anything, can give meaning to life? What makes human lives go well or badly? Why should I not hit my brother? Being a philosopher is a lot of fun because we get to think about these simple-minded, hard questions and still get paid for doing so. Philosophers are also fortunate in being able to take up many such big questions over the course of a career without being counted mere dilettantes. We are, after all, professional gadflies. I have taken advantage of this by dabbling in problems in many different areas of philosophy. All philosophical problems have a fundamentally normative question at their core, that is, a question about how things ought to be, about what is good, right, true, or beautiful: how ought we reason? is knowledge possible? How ought we live? What is artful?

2. Game theory and rationality

In graduate school I was especially interested in questions about rationality and action: what does or should a rational individual do when interacting with other rational individuals? What are the characteristics of strategic rationality, and how can understanding the requirements of rationality help to interpret and predict what human beings will do in social interactions? This is the question for which game theory, a mathematical approach to modeling strategic interaction, was invented. I was very fortunate to be at the University of Pittsburgh when the philosophy of economics was just being recognized as a field of research, its first journal was founded at Carnegie Mellon, and there were professors in Philosophy and in Economics (especially David Gauthier and Alvin Roth) at both schools with whom I could study game theory. Following questions where they led, however, brought me to a conclusion that I have been trying to make sense of ever since: game theory's hallmark result, the Nash equilibrium for non-cooperative games, exists only for rational individuals under impossibly unrealistic knowledge conditions. Namely, they have to not only know the precise conditions of their interactive situation but also know that they each know and know that they know that they each know, and so forth for all possible infinite levels of mutual knowledge. This is a condition called "common knowledge." Lacking any one of these levels of mutual knowledge, I discovered, leaves us with the impossibility



of deductively inferring an equilibrium solution for the general case.

Let me give you a little puzzle that illustrates the type of problem I was interested in, called the red hat game puzzle.

Suppose you have a hundred people sitting around a long table in a room, each with a red hat on, they can see each other's hats, but not their own. A red hat game official comes in and says "I will ring this bell and when you know you have a red hat on, you may leave the room." He rings it once and no one leaves. Rings it again; no one leaves. He rings it infinitely many times; no one leaves. Now he says "there is at least one red hat in the room," and gives the same instructions as before. He rings it once; no one leaves. He rings it again; no one leaves. He repeats this and on the 100th bell, everyone leaves.

How did they know they had red hats on? What difference did the statement that there was at least one red hat in the room make? After all, everyone already knew that there was at least one red hat in the room; they could each see 99 of them. To see how the puzzle works, consider the two person case. Here we have two guys looking at each other's hats; when the bell rings they cannot deduce from no information that they have a red hat on their own head. But now they know that there is at least one red hat

in the room, and that the other knows that. Then after one bell they think to themselves “hey, he didn’t leave, so that means he must see that I have a red hat on,” and on the second bell they both leave. So the information that they got from the announcement that there is at least one red hat in the room is “I know that he knows that there is at least one red hat in the room,” that is, the second level of mutual knowledge that there is at least one red hat in the room is what they needed to deduce that they had a red hat on after the other guy stayed when the bell was rung. The statement actually gave them full common knowledge that there is at least one red hat in the room, that is, all the nested levels of mutual knowledge: I know that he knows, I know that he knows that I know, I know that he knows that I know that he knows, and so forth. I leave the 3 person case for you as an exercise to show that what is needed is the third level of mutual knowledge that there is at least one red hat in the room, and the 100 person case, which requires 100 levels of mutual knowledge, you will have to believe “by induction,” I assure you.

What this puzzle illustrates is that not only knowledge but mutual knowledge is important for reasoning about action. If mutual knowledge of one key aspect of the situation is missing even perfect reasoners – reasoners who can go through that entire 100 levels of he knows that she knows that he knows... reasoning – cannot solve the puzzle. Ok, 100 levels of mutual knowledge is a heroic assumption, but 2 levels is not and so the higher levels might just be considered a simplifying assumption that is approximated in reality by real human beings, who, after all, don’t play many 100 person red hat games. But this puzzle does not show the worst problem for game theory, which startled me when I found it. I had set out to prove that finite levels of mutual knowledge would be enough for perfect reasoners to reason their way generally to solutions to games. But, alas, in my dissertation I proved that to be false: the full set of infinite levels of common knowledge is necessary in the general case.

Since proving this result, game theory has held little attraction for me as a theory of human rationality. That is not to say it is useless, however. I now use it to interpret and understand how social institutions motivate people to behave in certain patterned ways and I have come to use it as this kind of interpretive device, but only one tool among many for understanding how people should or do behave. So game theory in itself became a lot less compelling for me, and other philosophical questions became more interesting.

3. Feminist political philosophy

Shortly after coming to KU as an assistant professor I read a book in feminist political philosophy that rocked my world: Susan Moller Okin’s *Justice, Gender, and the Family*.¹ This book is an investigation of the male-dominated history of political philosophy through a liberal feminist lens.

¹ Susan Moller Okin, *Justice, Gender, and the Family*, New York: Basic Books, 1989.

She asks: how does our theory of justice change when you take seriously the actual lives of human beings, who live in families and half of whom are women and girls, whose lives do not resemble the public lives of the men who populate the great political theories of Aristotle, Locke, Kant, and Rawls? What happens when you look at intimate family life as a bargain among rational individuals whose gender determines their opportunities outside the family, and hence their bargaining power within? This book and several other works by feminists working in economics, political science, and philosophy, changed the focus of my research from foundational questions in which I applied epistemology, logic, and philosophy of science to understand and critique economic models to philosophical questions about justice, freedom and oppression, in which my training in economics could be used to understand patterns of human social interaction.

My research in social and political philosophy begins from a fundamental commitment to the value of the individual as the moral and political starting point, that is, liberalism. So I ask the simple-minded, hard, normative question: What makes individual human life go well or badly? Here are some answers that raise the questions that motivate my research:

- Freedom. But what is freedom? And should we really want it?
- The opportunity to develop our capacity for morality, cooperative interaction, excellence in a diversity of valuable activities pursued cooperatively in competition with each other. How do we best achieve this? What are the social and political obstacles to achieving this?
- Dignity and freedom from violence and coercion: what is coercion?
- Justice: what is justice? How is justice related to freedom and coercion?

4. Methodology

Before I sketch out my answers to some of these questions, I need to set the stage with just a bit. My work in philosophy of economics and philosophy of social science, and most importantly, my work in feminist philosophy, led me to some methodological maxims, if you will. Armchair philosophy is inadequate to recognize many of the real problems of human beings, because it focuses insularly on what other philosophers have thought, and those philosophers have come from a narrow spectrum of human experience. Philosophy generalizes and universalizes, and this is a good method for some things, but misses the exceptions that can prove new rules. First, as feminist theorists like to say, lived experience is important. Social theory built upon no actual stories and evidence of human experience is blind. This requires me to use lots of examples from actual human experiences. Second, descriptive analysis – data – and scientific explanation is important. Third, the real test of a theory of a normative

concept is whether it can improve our ability to change or manipulate the phenomena. In other words, a theory about freedom that doesn't help you see how to achieve freedom is not a good theory. So with these methodological notes, let me tell you a bit of what I discovered through my research on justice and freedom.

5. Oppression

One of the main topics of my research has been social oppression. Oppression has been one of the central concepts of feminist philosophy, as well as philosophy of race. As I see it, oppression is the major obstacle to justice and freedom and therefore should be understood as a central concept in moral, social, and political philosophy, but it has been strangely neglected. My book *Analyzing Oppression*² aimed to put oppression in its place by explaining how it prevents us from living well and why it is so hard to overcome. I characterize oppression as having four defining features. The first is harm – for someone to be oppressed they must be harmed, which means that their interests are somehow compromised. This could be a physical injury or psychological hurt, or it may not be a harm that is felt by the victim; it may be an imposed inequality or unfairness that they may or may not recognize. The second feature is that the harm comes as a result of belonging to a social group. This is what makes oppression a fundamentally *social* injustice. Many oppressed social groups are what I call non-voluntary social groups, also called ascriptive groups that one is ascribed to by others in society, such as race, gender, or ethnicity. Persons can also be oppressed as members of a religion that they voluntarily join or because they refuse to join one. Oppression is a violation of freedom of association in those voluntary cases. The third defining feature of oppression is that there is a social group that is privileged with respect to the harms suffered by the oppressed group. This is in part what makes oppression an injustice – others gain through the group's oppression. One of the insidious things about oppression is that members of a social group can be privileged involuntarily, and perhaps even be just as powerless to change oppressive social institutions that privilege them as those in the oppressed group. Fourth, the harm is coercive or unjust. This prevents people from claiming they are oppressed when they are in fact suffering a well-deserved harm, such as guilty criminals who are forced to make restitution or serve time in a decent prison.

Notice that by my definition, some people, perhaps even most people, are oppressed as members of some social group yet privileged as members of others. The middle class White American woman is oppressed with respect to gender, yet privileged with respect to class, race, and national origin. I take it that this reflects a real feature of our complex social lives. The definition alone says nothing about which of these features defines a

person's identity, determines how she as an individual will be treated, or how she will perceive or feel about her status with respect to oppression or privilege.

My next task was to explain how oppression gets started and then keeps going. I think oppression is puzzling in light of a few basic facts about humanity. I take it that we are roughly equal in the sense that the philosopher Thomas Hobbes wrote about and based his social contract on in the 17th century.³ That is, we are equal in the sense that in spite of differences among us with respect to cognitive, imaginative, or physical abilities, we could, if we were really motivated, kill each other. No one is invulnerable; we all pose a threat to each other. Thus, if we treat each other badly enough, then we give each other a motive to fight back, and to put each other in constant danger and fear of violent death. And down that road, Hobbes explained, lies the war of all against all, in which the life of man is solitary, poor, nasty, brutish and short. Thus it seems puzzling to me why any group of people would try to subjugate another, or why any group would suffer without such violent retaliation that it would soon be seen as a bad idea to try to subjugate them. How, in practice, are some groups able to oppress others?

The explanatory theory I give of oppression is a "social force analysis", which involves what I call forces of oppression. There are two material forces at work: systematic violence, which includes forceful injuries and threats to injure people and things they care about, and economic forces, which include discrimination, segregation, slavery, harassment, and opportunity inequality. Then there are psychological forces of oppression, which can be cognitive, that is having to do with how beliefs are formed, such as stereotyping, ideology, and false consciousness, or affective, that is having to do with feelings and emotions, such as terror, humiliation, degradation, and deformed desires. While some of the forces are direct, that is, applied by others or by the social norms and institutions that have been erected by past individual actions; others are indirect, meaning that they work through the oppressed person's own psychology or choices and behaviors to reinforce oppression. To summarize my analysis in a sentence: oppression is an unjust, social group-based harm that is perpetrated through social institutions by means of direct and indirect material and psychological forces, privileging other social groups.

There are many puzzling things about oppression, but most puzzling of all, and what my research aims primarily to explain is what I call the endurance question: why does some oppression last for generations despite the fact of rough natural equality of humans that I mentioned earlier? My answer is that oppression endures because the oppressed are co-opted, through a variety of psychological, economic, and violent means, to join in the oppression of their own social group. They are co-opted to internalize

² Ann E. Cudd, *Analyzing Oppression*, New York: Oxford University Press, 2006.

³ Thomas Hobbes, *Leviathan - Revised Edition*, A.P. Martinich and Brian Battiste, eds. Peterborough, ON: Broadview Press, 2010. First published 1651.

oppressive emotions such as feelings of inferiority, shame, terror, and trauma, and they are also co-opted into acting in ways that reinforce and continue oppression for their social group. The oppressed tend to fulfill stereotypes about them, they typically accept the best of a bad set of options, and then embrace that option as if it were a good one, all things considered. They join in the criticism of members of their own group who resist oppression and thereby police the boundaries of their social group. They play their allotted roles in the economy and help to stabilize and reinforce oppressive norms.

Why do they (or rather we) do this? Fundamentally, it is because it is in each person's individual interest to make the best of the options presented, and only collective action, which we cannot count on others to join, or very rare individual actions can transcend the options presented to members of oppressed groups. What I mean by this is that we come into a world of social norms, expectations, stereotypes, and traditions that are already there and set by an endless number of interactions and behaviors of those who come before us. As individuals we are almost completely powerless to change them. In the marketplace of social norms, we are norm-takers, not norm-setters. Yes, there can be exceptions to this, when a charismatic and imaginative individual inspires a large group of people to resist and ultimately change the norms. But most of us most of the time cannot count on others to join us and so we must do the best we can for ourselves within the norms and rules our cultures present to us. Resisting alone is a very risky strategy. Most of us recognize the risks and accept the oppressive norms and conform to them in order to get the maximum reward available from the social system. We live up to the stereotypes so that we are not seen as deviant. But for the oppressed, whose stereotypes are demeaning, this in turn causes feelings of inferiority and shame, and it prevents the oppressed from competing on a level field with the privileged. Thus, while direct forces are necessary to get oppression going for a social group, it is the indirect forces of oppression that I believe are the most insidious and the answer to the endurance question.

I am an optimist nonetheless, and so in my work I try to look forward to ways that we can work to overcome oppression. I distinguish the situation of the end of one or more cases of oppression, but where new forms of oppression develop, from full freedom, where we have learned to, quoting Nelson Mandela, "live in a way that respects and enhances the freedom of others." In various works I have tried to argue that freedom for all is a good for each. In my book, I concentrated on one type of argument for this claim, which is that a world of free persons who participate fully in shared activities is a better world for each of us than one in which some groups of persons are prevented from this sort of full, free, and cooperative expression. I relied here on a concept elaborated by the great political philosopher John Rawls, called the social

union.⁴ A social union is a group of persons collaborating in a shared activity that brings out the best in each and results in that sort of shared product that lifts up all of them. In a society with many social unions we come to see that by expanding our circle of concern to others who were once excluded we can increase our pleasure by increasing our opportunities to collaborate and achieve.

This idea of finding pleasure in each other's achievements and coming to identify with them is, I think, key to solving many social ills and understanding what justice and morality requires. I argue that this is characteristic of the society of free persons, which is not only free of current oppressions, but whose members seek to free all persons of oppression. For in such a society the individuals are able to seek their own good while valuing others' attempts to do the same. They seek to encourage diversity and enhance the freedom of others. They take pleasure in and identify with the accomplishments of others. And further, they come to see their own freedom as connected to that of the others.

6. Capitalism

Oppression is not the only obstacle to freedom and justice. Another major obstacle is material deprivation or poverty. In several articles and a recent book⁵ I argue that, with the right kinds of property rights and regulations, capitalism can be the solution to the problem of deprivation as well as a means of achieving other important freedoms. Furthermore, I argue that capitalism is especially good for the world's women. Adhering to my methodological maxims to begin from actual lives, use data and scientific theory, and work toward transformative theory, I assembled both historical and current data to make the case that capitalism has caused huge, positive changes in human lives. Namely, the capitalism-fueled development of industry and society has changed life expectancy around the world from just over 30 years at the turn of the 19th century to over 60 in nearly every country, and over 70 in many countries. And of most importance for women, this development has dropped the fertility rate from over seven per woman to around two per woman. Those are just to mention the two most important data points of all, and not the countless ways that daily life has been made easier, safer, and more pleasant for nearly every living human being than it was before the dawn of capitalism.

Now of course, that is not the end of the story, nor is it to say that every human individual leads a life free of deprivation, let alone that things cannot be made better. My work on capitalism seeks to describe an enlightened economic system, and to defend it against three types of opponents. First there are the libertarians who believe

⁴ John Rawls, *A Theory of Justice*, Cambridge: Belknap Press of Harvard University Press, 1971.

⁵ Ann E. Cudd and Nancy Holmstrom, *Capitalism, For and Against: A Feminist Debate*, New York: Cambridge University Press, 2011.

that we can have a free market with very minimal laws and virtually no taxes. I think that the legal framework defining property rights has to be extensive to ensure the good features of capitalism, those that make it justifiable to defend with coercive force. Second there are the socialists who hold that the right to own capital is an unimportant freedom and leads to oppressive inequalities. I think that the economic freedoms including the right to own a business are crucial for developing one's capacities and protecting against tyranny, in addition to being the best way to avoid poverty. Third there are the feminists who argue that capitalism devalues women's labor. I argue that capitalism helps to eliminate the concept of women's labor. Each of these opponents has important points that I consider in imagining a more enlightened form of capitalism.

So what is this enlightened form of capitalism? First let's consider the basic defining conditions of capitalism. By "capitalism" Marx meant an economic system whose core, defining feature is private ownership of the means of production, that is, of capital inputs to production.⁶ This is the **private ownership of capital condition**. In capitalism people are free to choose their occupations, as long as they can find someone who wants to employ them or they have the capital to start a business where they can employ themselves. This is the **free wage labor condition**. Both of these conditions imply that governments do not control centrally what is made or consumed, but rather that is determined by the uncoordinated private decisions of individuals who are free to contract to buy or sell their labor, capital, goods, and services with each other with relative freedom from constraint by government. Let us call this the **decentralized open market condition**.

The big problems with capitalism in the actual world are that it exacerbates inequality and provides opportunities to continue longstanding patterns of discrimination and segregation. The reasons in favor of capitalism are very strong, however, because it inspires us to create, innovate, and produce things that people want. It allows us to freely choose how we will work and for whom, and liberates women especially from the ties of kin and tradition. It gives us reason to cooperate with strangers around the world if only to trade with them for our mutual advantage. I maintain that we also find reasons internal to the logic of capitalism itself for mitigating inequality and discrimination.

In my view, and this is contrary to what most libertarians hold, property rights are not natural rights but rather conventional. They are defined within a community and have no existence outside that community. How should we design property rights, then? I argue that we should see society as a cooperative venture for mutual advantage, and that rules of justice, including property rights should be designed to achieve mutual advantage. What I mean

by mutual advantage is that each person is made better off under the agreed upon institutional structure than they would be if they could not come to agreement. With mutual advantage as the standard for making agreements, each benefits. Now it may well be the case that there are many different institutional structures which could generate agreement and cooperation as well as mutual benefit. I argue that all of these involve some type of capitalist property rights structures. Furthermore, all of the mutually beneficial arrangements that achieve cooperative agreement by all will also rule out gross inequalities under which people live undignified lives. This is so because no one will put up with indignity, or at least they will not do so without always looking for a way to cheat, steal, or get revenge on those who they see as unfairly benefitting from the system. (Recall the Hobbesian war of all against all.) Finally, I argue that invidious discrimination will also be ruled out in such a system, since discrimination is not only economically inefficient, and so not as mutually beneficial as not discriminating, but also it is another way of treating people in undignified ways that will not achieve peaceful, trusting cooperation.

The enlightened ideal of capitalism I defend, then, is a system in which there are non-discriminatory, legal protections of decentralized, private ownership of resources, cooperative, social production for all citizens, and free and open competitive markets for exchange of goods, labor, services, and material and financial capital. This definition implies the socially and governmentally sanctioned nature of the system. Laissez-faire capitalism is an unrealizable ideal that could never exist in fact because for capitalism to even exist, let alone prosper, property rights need definition by a legislative body and protection by a police force. If people do not have secure rights to things, they need not trade, since they can just take, and when they have something, it can be just as easily taken away. Markets require trust and security, such as can only be supplied by a complex social system of rights, trust, and protection. Social, cooperative interaction is thus at the heart of the system, in both the creation of the social, legal infrastructure that frames economic production and exchange, and in production and exchange in themselves. This definition emphasizes the competitive character of the system, which has both positive and negative implications for human well-being. Capitalism is a form of cooperative competition, a set of socially accepted rules, a game, if you will, within which players seek their best advantage. Its normative value as a social system depends upon both the rules that delimit the game and the values by which its players define their best advantage. Pursued in its enlightened form, capitalism enhances freedom and dignity for all, and allows each to pursue their own chosen way of life.

7. Contractarianism

My current project is to develop a political theory that endorses enlightened capitalism, while recognizing

⁶ Karl Marx, *Capital*, Vol. 1, translated by Ben Fowkes, New York: Knopf Doubleday, 1977. First published as *Das Kapital* in 1867.

and mitigating oppression and enhancing freedom. This theory is contractarianism, which is related to the moral theory of the same name that is identified with my dissertation advisor, David Gauthier.⁷ Although I didn't work on contractarianism when I was his student (recall I was working on the foundations of game theory), I have come to see it as the moral theory that best fits with my political philosophy and my metaethical commitments. Metaethics is the study of the basic underlying assumptions of our moral thought and practice. One of the basic metaethical questions is whether morality is all relative, or whether moral facts reflect reality. That has always seemed to me to be a false dichotomy. Contractarian ethics holds that moral rules are the outcome of agreement among rational individuals. Thus the metaethical view of contractarianism is neither relativist nor realist but rather conventional. And that seems right to me for lots of reasons, such as the fact that we do not have to assume that there is some source of morality that is external to humanity, such as a god or some self-evident truth.

Political contractarianism holds that legitimate political authority of government derives from the consent of the governed, where the form and content of this consent derives from the idea of contract or mutual agreement. Contractarian theory is criticized as being unable ultimately to show that morality or cooperative social behavior can be inspired by appeal to mere rationality without some additional moral foundations. I am trying to show that enlightened capitalism, which is non-oppressive and freedom-enhancing, **can** be derived from this political theory, without any further moral assumptions. Although the capitalism part of that derivation doesn't strike philosophers as very surprising, the enlightened part does.

8. Summary

So to sum up, my work seeks to show that justice and freedom can be achieved when persons come together to seek their mutual advantage. Deriving this result from no prior moral assumptions other than the primacy of the human individual, my work answers the skeptic about morality and justice who asks "why should I follow the rules?" In my view, we can be motivated to follow these agreed upon rules not only through rationality, but also through seeing each other as fellow players in the game of life, in which we must cooperate and follow the rules in order for

competition to bring out the best in each of us. My work is normative analysis that is grounded in social science, both theoretical and descriptive, and in the observations and theorizing that excluded groups such as women and racial minorities have brought to academic notice. Although my work is primarily academic, I seek to enable and enhance the work of those who are on the front lines of changing lives, in domestic violence shelters, in legislative bodies, and in international organizations that work with women and refugees. I hope to enable us to see the world as capable of change, and to see freedom and justice as a cooperative venture that we can achieve for each only when we achieve it for all.

A university is a primary example of such a cooperative venture. Through our study together, teachers and students cooperate to raise questions, study and debate potential answers, and solve problems. It is at once a cooperative and a competitive enterprise that lifts up all of us. My best ideas and arguments have come to me in dialogue with my teachers and my students. In addition to the many persons who I had the opportunity to thank at the beginning of my talk, I am grateful to the students I have engaged in this cooperative venture with over the years. So I will end my talk with this slide showing some of them.



⁷ David Gauthier, *Morals By Agreement*, Oxford: Clarendon Press, 1986.