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Almost There: Toward a Synoptic View of Justice

- 1) Three main categories of contrast and comparison:
  - a. Rights versus Utility
    - i. Rights Based Theories—Locke, Kant, Nozick and Rawls
      1. Note that thinkers that are very different in some respects, notably Nozick and Rawls, are similar in this fundamental aspect.
    - ii. Utility—Bentham and Mill
      1. Note that Mill attempted to harmonize utility and rights by explaining the utilitarian foundations of rights.
  - b. Liberty versus Equality
    - i. Liberty—Nozick and libertarians
    - ii. Equality—Rawls
  - c. The Right and the Good
    - i. The Right—Government should be neutral with respect to fundamental moral and religious questions
      1. Kant, Rawls, and Nozick
      2. This is where Nozick and Rawls are in agreement again
      3. This is often associated with social contract theory, and generally takes a voluntarist notion of the self.
    - ii. The Good—The Government should take a stand on fundamental moral questions.
      1. Aristotle, utilitarians, communitarians, Sandel
      2. Teleological theories fall in this category.
      3. This view often (but not always) takes the narrative view of the self.
- 2) Application of these categories to three difficult political controversies:
  - a. Establishment of Religion
  - b. Abortion
  - c. Slavery in the Lincoln-Douglas debates
- 3) The ultimate question: what role should morality play in politics? Is there Justice without morality?

## Aristotle

Aristotle	Communitarian	Politics/Nicomachean Ethics
<b>Key Points:</b>		
1) equality for equals, inequality for unequals 2) The polis is prior to the individual, since man is by nature a political creature; the purpose of the city is the "good life" 3) Distribute goods and positions by virtue; best flutes go to the best flute players, and the most virtuous citizens get the best offices since virtue is a goal of the good life		
<b>Key Notes:</b>		
Defines justice as equality for equals, and inequality for unequals The whole is superior to the part: the hand is not as useful without a body around it the good is prior to the right  Some people are born slaves; slavery by conquest is unjust. Slaves are those whose physical strength is greater than their rational strength; masters are those whose rational strength is greater than their physical strength distribution is based on the telos of the good, and the people who are most able to fulfill this purpose should have the good/office the two most important things for a city are 1) people who are just, and 2) good soldiers		
<b>Key Issues:</b>		
	<u>Stance</u>	<u>Rationale</u>
<b>Taxation</b>	Probably for taxation	Since Aristotle puts the polis ahead of the individual, he would likely say that people should be obliged to promote the well being of the city. Thus, assuming the taxes were used to help the city, then he would likely be pro-tax. If the taxes were used as welfare, then this may be different, since virtue and goodness are different from well-being
<b>Redistribution</b>	Either way	Believes the polis is ahead of the individual, so he would likely not be for individual welfare type taxation
<b>Slavery</b>	Pro-slavery	Some people are born slaves, but slavery by conquest is not just
<b>Abortion</b>	?	Aristotle puts individual rights secondary to the good of the city (good > right), so he would be theoretically against abortion if the child's virtue could benefit the polis
<b>Property</b>	Communitarian	As a communitarian-type thinker, Aristotle would likely see personal property as secondary to the good of the city. While Locke sees property protection as a key to why people join a city, Aristotle sees man as inherently political, so property and individual rights are not such big issues
<b>Affirmative Action</b>	Anti	Aristotle sees individual virtue as the determining factor in distribution of goods, thus equality and individual rights are subordinate to creating greater overall goodness and virtue in the city. This is similar to redistribution and the flute example.
<b>Critics/At Odds With:</b>		
<b>Locke:</b> slavery	<b>Nozick:</b> Individual rights	
<b>Libertarians:</b> redistribution/individual rights	<b>Rawls:</b> welfare (redistribution), morally arbitrary initial conditions	
<b>Tensions</b>		
Polis > individual Good > right		

## Bentham

<b>Bentham</b>	<b>Utilitarian</b>	<b><u>Principles of Morals and Legislation</u></b>
<b><u>Key Points:</u></b>		
1) Man is governed by pain and pleasure 2) Utility is the tendency of an action to increase or decrease the happiness of a person in terms of pain and pleasure 3) All decisions are made by utility		
<b><u>Key Notes:</u></b>		
Utility is valued by 1) intensity, 2) duration, 3) certainty, 4) nearness/remoteness. Dealing with the "chain of events" resulting from an action: 1) fecundity: the chance that pleasure is followed by more pleasure, and 2) purity: the chance that pleasure is not followed by pain To disregard the outcome and its impact on society is to be hostile to the rest of humanity Sum the utility of a decision across everyone it affects to see if the action is just		
<b><u>Key Issues:</u></b>		
	<u>Stance</u>	<u>Rationale</u>
<b><i>Taxation</i></b>	Depends	If taxation creates more pleasure than pain in society, then the tax is just
<b><i>Redistribution</i></b>	Depends	If the redistribution creates more pleasure than pain in society, the redistribution is just
<b><i>Slavery</i></b>	Depends	If the slave receives more displeasure than the masters receive pleasure, collectively, then slavery is unjust
<b><i>Abortion</i></b>	Depends	If having a child causes society more pain than pleasure, abortion is just
<b><i>Property</i></b>	Depends	Property rights are based on the relative pleasure and displeasure of their strength
<b><i>Affirmative Action</i></b>	Depends	If such policies cause the minorities they benefit more pleasure than they cause pain to those hurt by the policy, then affirmative action is just
<b><u>Critics/At Odds With:</u></b>		
In-line with Mill	<b>Libertarians</b> /those for individual rights, since the rights of some may be violated	<b>Kant</b> : is too ad-hoc, and that it should be able to be more easily reasoned
Can be seen as similar to communitarian, although this depends	<b>Kant</b> : this is not based on <i>a priori</i> knowledge, but rather empirical measurements	
<b><u>Tensions</u></b>		
Community vs. Individual (community wins)		
Good > right; since definitions of pleasure and pain, as measured by some governing body, require judgments on the good		

## Friedmans

<b>Friedmans</b>	<b><u>Libertarians</u></b>	<b><u>Free to Choose</u></b>
<b><u>Key Points:</u></b>		
1) Equality before god, equality of opportunity, equality of outcome 2) A society that puts equality of outcome ahead of freedom will end up with neither; a society that puts freedom first will end up with both 3) freedom/equality of opportunity mean diversity, and the opportunity for today's disadvantaged to become tomorrow's privileged		
<b><u>Key Notes:</u></b>		
Equality before god: each person has unalienable rights and is entitled to serve his own purposes liberty is a part of the definition of equality limited government is proper, and it should respect individual differences Equality of opportunity: a career open to the talents" means that there should be no obstacles to achieving positions except for own ability. There are still advantages by birth here Equality of outcome: bad: "everyone should finish the race at the same time," and equality equals fairness. This takes away personal liberty, and provides lack of incentive		
<b><u>Key Issues:</u></b>		
	<u>Stance</u>	<u>Rationale</u>
<b><i>Taxation</i></b>	Pro-tax	Equality of opportunity may mean that a government should take taxes to create basic infrastructure (education, etc.) to help the disadvantaged
<b><i>Redistribution</i></b>	Pro-redistribution	If redistribution creates equal opportunity, then the Friedmans are for this
<b><i>Slavery</i></b>	Anti	This is against both individual rights and equality of opportunity
<b><i>Abortion</i></b>	?	Probably pro, since this is individual rights based
<b><i>Property</i></b>	Strong	Inequality and diversity are trademarks of the Friedman writings: inequality, diversity, and opportunity are necessary.
<b><i>Affirmative Action</i></b>	?	This may boil down to equality of outcome depending how you look at it
<b><u>Critics/At Odds With:</u></b>		
<b>Rawls:</b> Rawls is more for equality than diversity and individuality		
<b><u>Tensions</u></b>		
Liberty > Equality		

## Hayek

Hayek	Libertarian	Equality, Value, and Merit
<b>Key Points:</b>		
1) excess equality destroys individual freedom/identity: Liberty > Equality 2) If people are inherently different, and we treat them equally, inequality results: the only way to obtain equal position is through differential treatment 3) Make transfers based on moral merit: distribution should not interfere with voluntary exchanges and goals; if you give the state the power to redistribute, you give them the right to violate freedom. The state will ignore individual differences and is incapable of just redistribution		
<b>Key Notes:</b>		
there is a distinction between material equality, and equality before the law deliberately chosen distribution is bad, because it is based on preconceived notions on the value of a person to others society if someone is willing to acquire additional talents to do things that may be valuable, this must be treated as a communal gain; though some may be worse off as a result, the new ability will benefit the majority an equal distribution violates voluntary goals and exchanges redistribution is only good for those in extreme need		
<b>Key Issues:</b>		
	<u>Stance</u>	<u>Rationale</u>
<b>Taxation</b>	Sometimes	Only tax the rich to help the extreme poor; you should help people based on need, not equality.
<b>Redistribution</b>	Sometimes	Only in cases of extreme need such as natural disaster victims and the extreme poor
<b>Slavery</b>	Anti	Since Hayek emphasizes individual rights and liberties, he is likely anti-slavery
<b>Abortion</b>	Anti	Since Hayek emphasizes individual rights and liberties, he is likely anti-abortion
<b>Property</b>	Strong property rights	Individual rights/liberties out weigh equality to Hayek, thus the government should have little claim over property
<b>Affirmative Action</b>	Maybe	If minorities are considered extremely disadvantaged, then this welfare policy may be just, but if it is strictly for equality than this is a violation of individual rights and liberties of those who do not benefit
<b>Critics/At Odds With:</b>		
<b>Rawls:</b> emphasizes equality		
Any theory that puts the good first		
<b>Tensions</b>		
Right > Good Liberty > Equality		

## Kant

<b>Kant</b>		<b><u>Metaphysics of Morals</u></b>
<b><u>Key Points:</u></b>		
1) categorical imperative: universal, and an end in itself. Superior to Hypothetical imperative which must be related to something else and are not <i>a priori</i> 2) concerned with the means of an action, not the ends and results that it causes. Prefers reason/rationality to empirical examples/acquired knowledge 3) All humans share rationality; this is the basis for the categorical imperative		
<b><u>Key Notes:</u></b>		
tries to use reason, not knowledge to define justice: this avoids <i>posteriori</i> reasoning in preference of <i>a priori</i> prefers <i>a priori</i> reasoning because it is always true and unwavering, while <i>a posteriori</i> can change over time based on the current experience concerned with the means not the end Universal laws are preferred, and are always valid. Universal laws apply to all rational beings, cannot contradict themselves, and should be reasoned <i>a priori</i>		
<b><u>Key Issues:</u></b>		
	<u>Stance</u>	<u>Rationale</u>
<b><i>Taxation</i></b>	Anti	Not universal and not an end in itself: it is universal if it is not a progressive tax, but a tax is not an end in itself, and is not necessarily a conclusion of all rational beings
<b><i>Redistribution</i></b>	Anti	Not universal and not an end in itself:
<b><i>Slavery</i></b>	Anti	Not universal and not an end in itself:
<b><i>Abortion</i></b>	Anti	Not universal and not an end in itself:
<b><i>Property</i></b>	Strong rights	cannot universalize the necessity to give up property
<b><i>Affirmative Action</i></b>	Anti	Not universal and not an end in itself:
<b><u>Critics/At Odds With:</u></b>		
Utilitarians	Aristotle	
Communitarians (MacIntyre/Sandel)		
<b><u>Tensions</u></b>		
Right > Good		
Right > Utility		

## Locke

<b>Locke</b>	<b>Libertarian</b>	<b><u>Second Treatise of Government</u></b>
<b><u>Key Points:</u></b>		
1) Man originally in state of nature; enters society for better justice and property protection 2) Inalienable rights: life, liberty, property; CONSENT IS KEY 3) When someone mixes labor into something, it becomes their property		
<b><u>Key Notes:</u></b>		
<p>We are born free in the state of nature with natural rights: this is a state of natural liberties but not free license: cannot kill yourself or sell yourself into slavery</p> <p>Since everyone is equal in the state of nature, no one can harm another person's life, health, liberty, or property; if someone does, you are in a state of war where you can be judge and jury, punishing according to the severity of the crime; every man in the state of nature has the power to kill a murderer</p> <p>Once one joins society, they submit to majority rule: the government cannot change arbitrarily, and cannot seize property without just compensation; if it does it is in a state of war with its citizens, and they can and should rebel</p> <p>the only right given up when one enters society is the right to act as judge and enforcer of the law only slavery that is just is through conquest</p>		
<b><u>Key Issues:</u></b>		
	<u>Stance</u>	<u>Rationale</u>
<b><i>Taxation</i></b>	Depends	If majority rules, because when we join society we submit to majority rule
<b><i>Redistribution</i></b>	Depends	if majority rules, but only if this does not violate individual and property rights
<b><i>Slavery</i></b>	Depends	Through conquest yes, naturally no
<b><i>Abortion</i></b>	Against	Inalienable right to life violated (this depends on definition of "the good" and when life starts
<b><i>Property</i></b>	Strong property rights	unjust seizure/redistribution without consent prohibited; when you mix labor into it, it becomes your property
<b><i>Affirmative Action</i></b>	Unclear	
<b><u>Critics/At Odds With:</u></b>		
Utilitarians (Bentham/Mill)		
<b><u>Tensions</u></b>		
Liberty > Equality		

## MacIntyre

<b>MacIntyre</b>	<b>Communitarian</b>	<b>After Virtue</b>
<b>Key Points:</b>		
1) argues that we are a product of our narrative 2) cannot separate views of justice from the world that we live in 3) Good > Right		
<b>Key Notes:</b>		
In the Aristotilean sense, we are part of the whole: individuals are part of the whole of the community that surrounds them  Narrative takes precedence: Kant's killing a friend example needs to have friendship considered		
<b>Key Issues:</b>		
<b>Taxation</b>	Probably	To help fellow man
<b>Redistribution</b>	Probably	To help fellow man
<b>Slavery</b>	No	They are our fellow man
<b>Abortion</b>	?	
<b>Property</b>	Depends	Redistribution to help fellow man
<b>Affirmative Action</b>	Depends	To help fellow man
<b>Critics/At Odds With:</b>		
Individualists such as Kant, Rawls, and Nozick	Rawls' veil of ignorance	
Kant's categorical imperative		
<b>Tensions</b>		
Good > Right		



## Mill

<u>Mill</u>	<u>Utilitarian</u>	<u>Utilitarianism</u>
<b>Key Points:</b>		
1) There are higher and lower pleasures 2) aggregate utility takes precedence over individual preference 3) Higher pleasures are more human		
<b>Key Notes:</b>		
Rational agents always choose higher pleasures over lower ones; we know higher pleasures are higher because people will always choose them unless in extreme cases of unhappiness to overlook the fact that humans seek pleasure does not do justice to humanity everything is reduced to utilitarianism virtue leads to happiness, which is pleasurable Higher pleasures such as wisdom, nobility, and sophistication trump lower ones such as bodily pleasures		
<b>Key Issues:</b>		
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<b>Critics/At Odds With:</b>		
In-line with Bentham	<b>Libertarians</b> /those for individual rights, since the rights of some may be violated	<b>Kant</b> : is too ad-hoc, and that it should be able to be more easily reasoned
Can be seen as similar to communitarian, although this depends	<b>Kant</b> : this is not based on <i>a priori</i> knowledge, but rather empirical measurements	
<b>Tensions</b>		
Good > Right		
Communal pleasure > individual choice		

## Nozick

<b>Nozick</b>	<b>Libertarian</b>	<b><u>Distributive Justice/Anarchy, State, and Utopia</u></b>
<b><u>Key Points:</u></b>		
1) Patterned redistribution ignores personal liberty/property rights 2) In favor of a minimal state "limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, etc." 3) People are entitled to what they have; this is different than deserving things based on equality or natural assets		
<b><u>Key Notes:</u></b>		
Minimal government contrary to Rawls: differences in natural assets should not be minimized No patterned redistribution, only voluntary Against Rawls' difference principle which regulates for natural assets		
<b><u>Key Issues:</u></b>		
	<b><u>Stance</u></b>	<b><u>Rationale</u></b>
<b><i>Taxation</i></b>	Anti	Taxation = slavery for anything more than basic protection
<b><i>Redistribution</i></b>	Anti	Violates individual rights
<b><i>Slavery</i></b>	Anti	Forced labor, not a voluntary transaction
<b><i>Abortion</i></b>	?	
<b><i>Property</i></b>	Strong rights	Only just transaction is voluntary
<b><i>Affirmative Action</i></b>	Unjust	if not consented, involuntary
<b><u>Critics/At Odds With:</u></b>		
Rawls: Nozick has Liberty over Equality		
Utilitarians: Nozick has rights over utility		
<b><u>Tensions</u></b>		
Liberty > Equality Rights > Utility		

## Rawls

<b>Rawls</b>		<b><u>A Theory of Justice</u></b>
<b><u>Key Points:</u></b>		
1) Morally arbitrary assets are communal, and thus redistribution allows the community to best benefit 2) Difference Principle: social and economic inequalities should be arranged so that they are advantageous to the most needy 3) Thought exercise: initial position + veil of ignorance = redistribution that benefits those with the least natural assets		
<b><u>Key Notes:</u></b>		
Liberty Principle: each person has a right to the most extensive basic liberties compatible with similar liberties for others Seeks an egalitarian society (where people are treated as equals) in order to provide equality of opportunity, society must help the less fortunate You don't <b>deserve</b> your morally arbitrary talents, but you are <b>entitled</b> to what they get you. EX: If the Patriots (best team in the NFL) lose, they may deserve to win, but the team that beats them (Dolphins) is entitled to win. In other words, you are entitled to what you have, but you do not deserve your natural assets. Undeserved qualities such as natural talents should be compensated for (to those without such qualities) Talents are considered a common asset		
<b><u>Key Issues:</u></b>		
	<b><u>Stance</u></b>	<b><u>Rationale</u></b>
<b><i>Taxation</i></b>	Yes	to help the less fortunate such as those born into poor families
<b><i>Redistribution</i></b>	Yes	to help the less fortunate such as those born into poor families
<b><i>Slavery</i></b>	No	Egalitarian societies should not have slavery
<b><i>Abortion</i></b>	?	
<b><i>Property</i></b>	Weak property rights	this is a result of strong redistributive policies
<b><i>Affirmative Action</i></b>	Yes	if minorities are born into unfortunate circumstances that they cannot help
<b><u>Critics/At Odds With:</u></b>		
<b>Nozick:</b> believes natural assets are okay	<b>Libertarians:</b> who put liberty before equality	
<b>Aristotle/Utilitarians/Communitarians</b> who put the good before the right	<b>Utilitarians:</b> who overlook individual misfortune in order to calculate collective pleasure	
<b><u>Tensions</u></b>		
Right > Good		
Equality > Liberty		

## Sandel

<b>Sandel</b>	<b>Communitarian</b>	<b><u>Liberalism and the Limits of Justice, Morality and the Liberal Ideal</u></b>
<b><u>Key Points:</u></b>		
1) The right and the good are related 2) "justice finds its limits in those forms of community that engage the identity as well as the individual participant" 3) the right must allow for self-reflection, but that self-reflection will lead one to realize that the right is deeply related to the common good that one strives toward with those like him		
<b><u>Key Notes:</u></b>		
One cannot completely distance himself from his community or history, because it is constituent of who he is The right and the good are related		
<b><u>Key Issues:</u></b>		
	<u>Stance</u>	<u>Rationale</u>
<b><i>Taxation</i></b>		Used as they reflect society's notion of the good
<b><i>Redistribution</i></b>		Used as they reflect society's notion of the good
<b><i>Slavery</i></b>		Used as they reflect society's notion of the good
<b><i>Abortion</i></b>		Used as they reflect society's notion of the good
<b><i>Property</i></b>		Used as they reflect society's notion of the good
<b><i>Affirmative Action</i></b>		Used as they reflect society's notion of the good
<b><u>Critics/At Odds With:</u></b>		
Individualists such as Kant, Rawls, and Nozick	Critiques Kant as needing some notion of the good	
<b><u>Tensions</u></b>		
Right and good are related		