Chapter Four
GLOBAL CONSUMERIST SOCIETY AND DISTRIBUTIVE JUSTICE

Global consumerist society engages dialectically with issues of distributive justice. John Rawls maintains, “justice is the first virtue of social institutions, as truth is of systems of thought.” Global consumerism reflects interconnection, while global inequality presages ineffectiveness of global justice. The discipline of international relations has of late begun discussing and debating over the necessity of global distributive justice, although the prominent theorists still are from the discipline of philosophy. International Relations is still heavily inclined towards realism thrust, of the state having obligations only towards its own citizens. In short, justice is applicable only to domestic societies. As Chris Brown asserts “contrary to the near-universal acceptance of justice as a legitimate topic in political theory, orthodox international relations theory is at best indifferent, at worst actively hostile, to the idea of international justice as a focus for intellectual effort.”

Orthodox international relations theory is skeptical of any talk of justice in international relations. Its key concern is with the centrality of state and the pursuit of power in international relations. Further, the goal of these states is not justice but maximisation of power. “Post-war realism” as termed by Morgenthau, dismisses any idea of morality in states actions. The idea that the state can collaborate and cooperate to form international institutions so as to advance the common good is disparagingly termed as “utopian”, where “utopianism” is not only unrealistic but also dangerous. According to E.H. Carr, liberal internationalism is dominated by the teleological aspect, whose normative character has made it “markedly and frankly utopian”. Despite the emphasis of classical realists on the centrality of power to international relations, they still maintained an ethical position. For example, Carr asserted that “utopianism must be invoked to counteract the barrenness of realism” so as to attest that “pure realism can

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offer nothing but a naked struggle for power which makes any kind of international society impossible.” Daniel Warner explores the ethical position of these realists, and argues that their ethics was primarily committed to the welfare of their own state.\(^5\) Despite ethical positions, there was no notion of international distributive justice. Traditionally, justice in international relations was concerned with order and governing procedure of relations between sovereign states.

International relations theorists, who are concerned with justice focus on procedural justice rather than distributive justice. Theorists like Hoffmann, Nardin and Bull aim to analyse justice with respect to topics like aggression, just war, circumstances of intervention and political and legal rights of states. Bull’s work *The Anarchical Society* argues that even in an anarchical world, a society of states could be said to form agreement on procedural rules of conduct.\(^6\) Bull argues that this society will not endure unless its rules of conduct are fair for the constituents. Stanley Hoffmann is one of the pioneer thinkers of international distributive justice. Hoffmann is fairly skeptical of the extension of Rawlsian justice to include the whole world. Hoffmann asks whether the object of distributive obligation is individuals of poor states or poor states encapsulated in sovereignty. On the whole, Hoffmann remains convinced of the difficult path ahead remarking that “in matters of distributive justice the appropriate metaphor would be Sisyphus and his rock…”\(^7\) Terry Nardin is another theorist concerned with normative issues in international politics, though his prime concern is with procedural justice in contrast to distributive justice.\(^8\) Taking inspiration from Michael Oakeshott’s distinction between “enterprise” and “civil association” he asserts that international society is a “practical association” focusing on issues of procedure and not a “purposive association”.\(^9\) That is, international society is concerned with peaceful existence on fair rules of interaction and not aimed at advancing any purpose or objective like distributive justice. In fact, similar sentiments were presaged by the English school theorist, Martin

\(^7\) Stanley Hoffmann, *Duties Beyond Orders: On the Limits and Possibilities of Ethical International Politics* (Syracuse, N. Y., 1981).
Wight’s famous article, “Why there is no international theory?” Wight ruefully notes that “international theory is marked, not only by paucity out also by intellectual and moral poverty.” While traditional political theory is replete with the texts of prominent thinkers, but the same can’t be said of international theory. He asserted that there is

a kind of recalcitrance of international politics to being theorised about. The reason for this is that the theorising has to be done in the language of political theory and law. But this is appropriate to man’s control of his social life…. International theory is the theory of survival.

Thus, the political science and international relations discipline continued with the, what R.B.J. Walker terms as the “inside/outside” dichotomy: where domestic society was idealised as the arena of order, justice and freedom, while international relations was anarchical, akin to the Hobbesian state of nature. Walker takes note of Hoffmann’s assertion of an increasing focus on the intersection between ethics and international relations. The assertion of Hoffmann has an underlying assumption, that we are inheritors of a more or less codified ethics which need to be extended to include other states or societies. Walker repudiates this assumption, instead asserting that, “ethics, I will suggest, is not a repository of principles awaiting application; it is an ongoing historical practice. And far from being devoid of ethical principles, the theory of international relations is already constituted through accounts of ethical possibility.” Walker, arguing over the location of ethics, emphasises the important role of epistemology or philosophy in its coming to being. He argues that

The problem of skepticism was sharpened in classical Greece, and it is in that context especially that the possibility of a properly ethical life became tied to the possibility of philosophy. Not everyone has been persuaded by this move, and many have echoed suspicions of the kind articulated by

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11 Ibid., p. 33 Wight does not believe that there is any homogeneous self contained theory. But he delineates three traditions of thought, viz., Realism, Rationalism and Revolutionism. Realism portrays a Hobbesian state of war. While Revolutionism on the other hand, asserts with Dante and Kant, that world will ultimately coalesce in a society of human kind. Rationalism, asserts a middle path akin to Locke and Hume. Rationalists argue that it is mistaken to assume that the state of nature was either bliss or chaos. See, Martin Wight, International Theory: The Three Traditions (London, 1991).
12 R. B. J. Walker, Inside/Outside: International Relations As Political Theory (Cambridge, 1993). Walker questions the reification of sovereignty, which results in conflictual international relations. He asserted, “in this world of sovereignty/lack of sovereignty, of supposedly autonomous states in an unregulated contest of wills, sovereignty is both constitutive of the system and problem to be overcome,” p. 172.
13 Ibid., p. 51.
Sextus Empiricus. For the most part, however, hopes for a firm foundation for ethical principles have been shaped and reshaped through the interplay between philosophy, religion, science and the broad cultural and ideological dynamics generated by specific social formations. *Ethical traditions have thus come down to us bearing the marks of complex intellectual contention and social struggle.* Yet in whatever way one cuts into that daunting edifice known as the history of philosophy, and however one understands philosophy as a socially and historically constructed practice, it is clear that modern philosophy has been very strongly guided by a privileging of questions about how the world is to be known, and thus about how knowledge is to be justified. Epistemology has become they key entry into philosophical inquiry. The epistemological turn, associated especially with the scientific revolution of the seventeenth century, still provides the most powerful context in which ethical questions are posed and ethical claims are judged.\textsuperscript{14}

Though Walker emphasises the epistemological basis of ethics, he nevertheless takes note of the fact that, with modernity, the basis of ethics has become ambivalent. The far reaching implications of epistemological ethics has been that the basis of ethics is purported to be located in episteme. This obsession with epistemic categories leads to a pale conception and practice of international distributive justice. On the one hand, modernity depicts a universal standard. On the other hand, the very ascendance of modernity relegates ethics to the background. According to Walker, this happens through twin ways. Under the positivist bias of knowledge, it stresses on the empirical world as worthy of attention. Here objectivity is opposed to subjectivity, which is sidelined. On the other hand, “values tend to be equated with the way the world is already, or rather with the way the world has become under the progressive logic of modernization and utilitarian calculation. In both cases, questions about ethics appear to be relatively trivial. Modernity has already brought the good life, or at least provides the general principles and social dynamics through which ‘my remaining dilemmas may be resolved.’\textsuperscript{15}

Walker argues that in international relations, the issues of ethics are designated as “mere theory and philosophy or simply subsumed into an account of the way the world is presumed to be.” The ethical dilemmas are stifled through recourse of to Weberian rationality which is the hallmark of modernity. According to Walker, even Weber’s concept of modernity was two-sided. Within the domestic societies Weberian rationality

\textsuperscript{14} Ibid, p. 53. (emphasis added)
\textsuperscript{15} Ibid, p. 54.
emphasised progress. At the international level, the other side of Weberian modernity was played out in practice, as reflected in political realism, i.e. emphasising on the undesirability of ethical conduct. This is evident in Weber's distinction between rational action into purpose oriented (zweckrational) and value oriented (wertrational). Weber also distinguished between formal and substantive rationality.  

This Weberian bifurcation of rationality is akin to bifurcation of the human self. Now, "rational calculation remains possible, but rational calculation offers not one shred of advice about how one should live." The implication with the Weberian bifurcation of rationality is that the development of value rationality is transfixed until the early period of modernity, while allowing instrumental rationality to march forward and plunder the whole world. As Walker argues,

For Weber, modernity is characterized by an intensifying clash between the instrumental rationality and the realm of substantive values. As instrumental rationality advances, so the spheres of life in which meaning and values are affirmed become both marginalized and given a heightened significance. This tension introduces the fundamental paradox of modernity: in a world characterized by increasing rationalisation of all aspects of human existence, there is no rational way of deciding among an irreducible plurality of value commitments. Where Kant had advanced an account of ethics in which autonomous moral choice resided in a capacity to act according to principles that can be universalized, Weber offered an account of ethical life in which autonomous choice must be made not according to the requirements of universal reason but through a value-creating act of will. In short, an account of modernity framed as a universalising history of (instrumental) rationalisation is simultaneously an account of modernity as a realm of non-rational or criterionless choices about ultimate values.

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16 Michael H. Lessnoff, Political Philosophers of the Twentieth Century (Oxford, 1999). "At first, zweckrational action is said to be action oriented to the agents consciously held 'system of individual ends', with external objects and other individuals being looked on as potential means or obstacles to these ends. This implies a conscious weighing of different ends, and calculation of appropriate means in the light of all the likely consequences, welcome and unwelcome, of alternative courses of action. When zweckrational action takes place, the action is chosen as a means to an end, rather than as being valuable in itself. By contrast, wertrational action is action dictated by belief in the 'absolute value' of the behaviour in question, whether for ethical, aesthetic, or religious reasons, or out of a sense of duty, honour, personal loyalty, or whatever, and without regard to consequences." (emphasis in the original), pp. 9-10. Lessnoff believes that Weber distinguished into two rationality only for analytical purposes. They are of pure types. Also, no action is without mix of the either. But, this Weberian differentiation has been key to western social and political thought.

17 Walker, n. 12, p. 56.
In fact, "non-rational or criterion less choices about ultimate values" was not as valueless as it may appear to be. As is claimed by philosophers, that choice is not between ethics and no ethics, but only between good ethics and bad ethics. The Weberian bifurcation of rationality tied value rationality to its time period of early modernity, where the community was believed to be coterminous with the nation and race. It won't be out of place here to highlight out Weber's adoration of German nationalism. Hence, this bifurcation obviated the need to ethically judge the imperial policies or international relations. This tendency continues in the present world, wherein distributive justice is asserted only for domestic societies, even by Rawls. Capitalism is free to englobe the earth under the rubric of technical rationality, without having any consequent obligation towards the Third World countries, whose resources it exploits. This tendency has been due to the privileging of epistemic categories in identifying and analysing social lives since, epistemic categories are by their very conception limited and defined as opposed to the other. The differentiation between reflective and instrumental rationality is an outcome of this belief. This has been the characteristic also in any discussions of justice. As philosopher A.N. Whitehead notes, "no science can be more secure than the unconscious metaphysics which tacitly it presupposes."18 This bias in the favour of epistemic category has been “the unconscious metaphysics” of most of the discussions of justice. Due to the very limitedness of epistemic categorisation, the debate over global justice has been between cosmolopolitanism and communitarianism. A major reason for inadequate recognition to global justice has been precisely due to epistemic theories of justice. The epistemic theory of justice is both abstract or ideal and relative. As Onora O'Neill, argues.

I begin by distinguishing idealized from relativized theories of justice. Idealized accounts of justice stress the need to abstract from the particularities of persons. They paint justice as blind to gender and nationality. Its principles are those that would regulate the action of idealized 'abstract' individuals'. They take no account of differences between men and women; they transcend international boundaries. Relativized accounts of justice acknowledge the variety and differences among humankind; they ground principles of justice in the discourse and traditions of actual communities. Since nearly all of these relegate (varying portions of) women's lives to a 'private' sphere, within which the

18 Quoted in Alexander Wendt, Social Theory of International Politics (Cambridge, 1999).
political virtue of justice has no place, and see national boundaries as the limits of justice, appeals to actual traditions tend both to endorse institutions that exclude women from the ‘public’ sphere, where justice is properly an issue, and to insulate one ‘public’ sphere from another.\(^{19}\)

**THE IDEA OF JUSTICE**

It won’t be an exaggeration to assert that justice is the core concept of social science. It occupies a prominent place in the field of economics, politics, sociology and philosophy. Justice is one of the most fiercely contested ideas. The word justice has been derived from the Latin term *justitia*, implying the joining, fitting or having a bond or tie. The predominant idea was joining or fitting together of man and man in an organised society. Later, this idea of bonding together was extended by Barker to include coherent fitting of values. The French Revolution gave birth to the three prominent values of the twentieth century, viz., liberty, equality and fraternity. For Barker, any just system of human relations requires an ideal coexistence of these three values. As Barker notes, “justice is the reconciler and synthesis of political values; it is their union in an adjusted and integrated whole.”\(^{20}\) The contest over primacy of equality or liberty in justice has been central to the various debates in political theory. The idea we are trying to explore here is that justice has been predominantly discussed through epistemic categories. The fallout of epistemic categorisation of justice is that of justice inside, and indifference or charity outside. Since epistemic categories are by their very nature limited, have constricted scope of justice exclusively to the domestic sphere. It should be noted that it is not our endeavour to discuss and debate over the principles of domestic justice but only to explore its epistemic biasness, which precludes extension of boundaries to include the whole world hence, precluding global justice.

It would be proper to start with the Greek concept of justice. Plato in his book *Republic* surveys the various concepts of justice. The predominant Greek conception of justice was the development of virtue or moral nature or perfectionism. The moral view was contested by the Sophists. For example, the Sophist Thrasy machus of Chalcedon of the late fifth century BCE argued that “justice is the interest of the stronger party”. The

\(^{19}\) Onora O’Neill, “Justice, Gender, and International Boundaries”, in Martha Nussbaum and Amartya Sen eds., *The Quality of Life* (New Delhi, 1993), p. 303. (emphasis in the original)

dominant class or stronger party defines justice in such a way that it subserves the interest of the dominant group. Thrasymachus tries to unearth the real motive behind the conception of particular justice. Since adhering to the prevailing justice implies being a means to other interests, Thrasymachus concludes that injustice is better than justice. Plato contests this view of justice, arguing that ruling is an art and justice makes oneself stronger and wiser.

Plato conceived of an idealistic or perfectionist theory of justice, arguing that justice symbolises the moral development and achievement of individual and society. Barker argues that Plato took justice as the true principle of social life. Without justice society can't exist and function properly. Because of Plato's predominant concern with justice, his classic book Republic is also called a "a treatise concerning justice". Barker remarked, "justice is the hinge of his thought and the text of his discourse". Platonic justice is biased towards epistemic categories. He doesn't emphasise on right, which has been the running theme of various theories of justice. It focuses on the moral development of the individual or the state. It was no accident that he espoused rule by philosopher kings. He argued,

social justice thus may be defined as the principle of a society consisting of different types of men... who have combined under the impulse of their need for one another, and by their combination in one society, and their concentration on their separate functions, have made a whole which is perfect because it is the product and the image of the whole of the human mind.

The Platonic ideal state was guided by his theory of ideas. The ideal state on earth is to be a copy of the ideal state in heaven. The Platonic differentiation of the social into three viz., rational, spirited or courageous and desirous soul, has the dominance of episteme. Even though the Platonic conception of justice looks surprisingly modern, arguing for specialisation and division of labour, but this very tutelage of epistemic categories is bound to lead to slavery to the "idea of the ideal state". Hence, the Platonic theory of justice has the key influencing factor in theory of ideas. As Wayper notes,
Plato has so far told us that the Good exists, and that only of it can there be true knowledge. But he has not shown us how men can acquire that knowledge. This he now proceeds to do by elaborating that doctrine of the Soul with which his doctrine of Ideas is inseparably connected. The Body, he says, is not the whole of man. It is indeed his less important part. The most important part is his Soul which may truly be said to divine. Plato is here of course using divine in the old Greek sense, something which is immortal in its own right, not because of any gift of the gods. Because the Soul is immortal it existed before it became incarnate, just as it will continue to exist after it leaves the body. Which is its temporary dwelling place. It's real home is its abode when not incarnate, and that is the higher world of Ideas.24

Despite the very simplicity of the concept of justice, as Will Durant maintains

Simply that each man shall receive the equivalent of what he produces, and shall perform the function for which he is best fit. A just man is a man in just the right place, doing his best, and giving the full equivalent of what he receives. A society of just men would be therefore a highly harmonious and efficient group; for every element would be in its place, fulfilling its appropriate function like the pieces in a perfect orchestra. Justice in a society would be like that harmony of relationships whereby the planets are held together in their orderly (or, as Pythagoras would have said, their musical) movement. So organized, a society is fit for survival; and justice receives a kind of Darwinian sanction. Where men are out of their natural places, where the business man subordinates the statesman, or the soldier usurps the position of the king there the coordination of parts is destroyed, the joints decay, the society disintegrates and dissolved. Justice is effective coordination.25

24 C.L. Wayper, Political Thought (New Delhi, 1989), p.20. Here reminiscences of Cartesian mind body dualism can be sensed. Though Descartes dismissed body altogether, but Plato gives dominance to Idea or Soul. But both have their similar effects of exclusion and limitedness. According to Plato, Soul has recollections of Ideas, which are aroused by senses in daily life. Here, he differs from Descartes, who believed that senses deceive us, and hence knowledge could be only gathered through intuition. As Wayper further notes, “Before its [Soul] incarnation it thus had knowledge of the Ideas among which it lived. And after its incarnation it is reminded of those Ideas through the senses when it sees those earthly things which “partake” of the Ideas. Hence the part played by the senses in the acquisition of true knowledge is very subordinate. It is only apparently through the senses that men learn truth. In fact, it is only because the soul recollects what it has known in a previous life among the original models or archetypes or Ideas that men can have knowledge of these Ideas. These recollections of the Soul are the only genuine form of knowledge, and because men possess souls they have therefore the possibility of arriving at it.” (pp. 20-1).

25 Will Durant, The Story of Philosophy: The Lives and Opinions of the World’s Greatest Philosophers From Plato to John Dewey (New York, 1961), pp. 38-9. Durant argues that Plato favours harmony be it at the individual level or at the state level. Infact, Plato had an organic concept of state. Plato emphasised that the state is an individual writ large. “Every individual is a cosmos or a chaos of desires, emotions and ideas, let these fall into harmony, and the individual survives and succeeds; let them lose their proper place and function, let emotion try to become the light of action as well as its heat (as in the fanatic), or let thought become the heat of action as well as its light (as in the intellectual) and disintegration of personality begins, failure advances like the inevitable night. Justice is a taxis kalos kosmos – an order and beauty of the parts of
Alasdair MacIntyre points to the Platonic theory of justice, for its emphasis on the excellence in human virtues. It was obvious that the Platonic theory of justice had a conception of the ideal state, as envisaged in heaven. MacIntyre’s division of various theories falling into two categories, viz., goods of excellence or goods of effectiveness. Plato envisaged a state under the tutelage of philosopher king, and each group viz., rational, spirited and appetitive, was devoted to pursue its specialisation, hence, culminating in partaking the idea of the ideal state. MacIntyre notes that,

The underlying concept of goodness has as its focus a conception perfected excellence in a type of activity specific to a particular type of person. A virtue is a quality of character necessary for the achievement of such a good. And justice is the key virtue because both in the psuche and the polis only justice can provide the order which enables the other virtues to do their work. What is disorder in the psuche? It is the pursuit of the satisfaction of the appetites and the emotions for the sake of that satisfaction, rather only as disciplined by the virtues of temperateness, courage, and justice, so that the appetites and emotions are appropriately transformed. In characterising this pursuit as incompatible with the achievement of that good which is the perfection of human agents qua agents Plato not only provides an outline of the first systematic theoretical vindication of the goods of excellence over against goods of effectiveness…  

26 Alasdair MacIntyre, Whose Justice? Which Rationality (London, 1988), p.74. MacIntyre, divides various conceptions of justice under two categories viz., “goods of excellence” and “goods of effectiveness”. Under the category “good of excellence”, any particular human virtue or human activity was to be pursued for excellence, irrespective of material achievements. Ancient thinkers like Plato, Aristotle, and Augustine were adherents of justice as goods of excellence. While the justice as “goods of effectiveness favour pursuit of wealth, and power. Justice is needed to regulate this endeavour. They are not entirely delinked, as MacIntyre notes that, “it would be a large misconception to suppose that allegiance to goods of the one kind necessarily excluded allegiance to the goods of the other. For on the one hand those forms of activity within which alone it is possible to achieve the goods of excellence can only be sustained by being provided with institutionalized settings. And the maintenance of the relevant institutional and organizational forms always requires the acquisition and retention of some degree of power and some degree of wealth. Thus the goods of excellence cannot be systematically cultivated unless some at least of the goods of effectiveness are also pursued. On the other hand it is difficult in most social contexts to pursue the goods of effectiveness without cultivating at least to some degree the goods of excellence, and this for at least two reasons. The achievement of power, wealth, and fame often enough requires as a means the achievement of some kind of genuine excellence. And, moreover, since the goods of effectiveness are those goods which enable their possessor to have or to be, within the limits of contingent possibility, what he or she wants, whenever someone whose fundamental allegiance is to the goods of effectiveness just happens to want, for whatever reason, to be genuinely excellent in some way, goods of effectiveness will be put to the service of goods of excellence.” p.35. Despite the interlinkages among two types of justice, there are fundamental differences. While the violation of justice in the “goods of excellence” is self-destructive. Since it obviates one’s progress towards a teleological conception of excellence. As MacIntyre
MacIntyre's bifurcation of various theories into "goods of excellence" and "goods of effectiveness" may hold at a general level. However, MacIntyre himself recognises their interpenetration. Thus delineation into excellence and effectiveness may be arbitrary. Though it may hold true for ancient Greek conceptions of justice, for their predominant normative concept. The emphasis of MacIntyre is on historical and localised rationality in construction of justice. Hence, justice is tradition constituted. This may not be a surprising statement from an avowed communitarian, even though both the conceptions of justice, excellence and effectiveness, are constructed through epistemic categories. It is the construction of justice through epistemic categories that leads to justice inside and anarchy outside. As in Plato, an ideal state following justice was delineated, but he was silent with respect to the position of slaves. Plato's silence on the fate of slaves has been variously interpreted viz., either he supported the slave system or was against it. This restriction of justice to "citizens" only is due to the epistemic character of justice. An epistemic analysis of society, necessarily involves exclusion. Further, as MacIntyre notes that, even though Plato sees justice in the terms of relationship within the tripartite polis in Book IV, he ascribes characteristic of polis to the characteristics of the individual persons who compose it- whence else, he asks, could the characteristic of the polis be derived? And a central thesis of the Republic is that justice in the individual psyche can exist and be for the good of that Psyche, no matter how unjustly that individual is treated by the polis. So Plato appears to believe that justice as a virtue, or rather as the key element in the virtue of the individual human being, is independent of and antecedent to the justice that is the ordering of the polis.27

notes, "someone who breaks the rules of the justice of excellence primarily harms him or herself, whether or not others are harmed. The harm to oneself is that of depriving oneself in some specific way of an opportunity to achieve the goods at which one is aiming." p.37. Further, the aim of punishment will be to drive home the need and necessity of uninterrupted pursuit of excellence. Hence, the goal of punishment is educative. Also, the administrators of justice are themselves to be just. On the other hand, in justice as goods of effectiveness, one can violate the rules of cooperative arrangement with impunity as long as one does not get caught. "Hence someone who is able to commit an injustice in such a way that others remain ignorant that he or she has done so benefits him or herself and incurs no harm." (p.38) In goods of effectiveness, the goal of justice is deterrence, so as to prevent the unraveling of cooperative arrangement. As MacIntyre asserts, "the most important function of punishment in a justice defined in terms of the goods of effectiveness is deterrence, and what is required of those who administer the rules of justice is that they are effective in deterring justice." p.38.

27 Ibid., p.96. (emphasis in the original). MacIntyre is surprised at this Platonic feature, particularly since Plato's own experience was contrary to this, with respect to the execution of Socrates. And his failed political ventures. MacIntyre notes that, "Plato after all did abandon the prospect of participation in Athenian politics because of the injustice of the death of Socrates. And his experiences at the courts of
It is location in individual *psyche* that Platonic justice can be castigated for its focus on episteme. MacIntyre asserts justice is constructed by limited or practical rationality. MacIntyre stresses.

the enquiry into justice and practical rationality was from the outset informed by a conviction that each particular conception of justice requires as its counterpart some particular conception of practical rationality and vice-versa. Not only has that conviction been reinforced by the outcome of the enquiry so far, but it has become evident that conceptions of justice and of practical rationality generally and characteristically confront us as closely related aspects of some larger, more or less well-articulated, overall view of human life and of its place in nature. Such overall views, insofar as they make claims upon our rational allegiance, give expression to traditions of rational enquiry which are at one and the same traditions embodied in particular types of social relationship.  

The other Greek thinker, Aristotle, according to MacIntyre has continued with the earlier tradition of Plato. In fact, MacIntyre term, “Aristotle as Plato’s heir.” because Aristotle maintains that society is essential for the human capacity for justice. It reminds one of the famous phrases that only a beast or a divine can live without society. This is well exemplified by Aristotle’s organic conception of state, where the individual without state is regard as useless as a detached limb. A measure of the state is grasped by its *telos*. Aristotle’s is a teleological conception of state, where it is pre-ordained to progress towards ideal state. This is evident in the famous Aristotelian phrase, “The state is prior to the individual”. Hence, the individual exists to subserve the good, where the state is conceived as a moral institution. This conception of the state, again in epistemic ethicospiritual categories, involves exclusion, since Aristotle conceptualised the state as a whole consisting of individual parts, with some of these parts essential and the others contributory. Slaves are contributory parts, who do not have an integral role in the *polis*. Hence, both women and slaves were excluded from citizenship. MacIntyre notes,

expositions of Aristotle on justice characteristically make little or no reference to his account of practical reasoning; and discussions of Aristotle on practical reasoning, or on the theory of action more generally,
are apt to say nothing about justice. But since my central claim will be that Aristotle’s thought on each of these topics is intelligible only in the light of what he says about the other, and both only in the light of what he says about the *polis*, I cannot explain why on Aristotle’s view justice is a virtue and what is involved in being just without discussing the essential part which practical reasoning plays in someone’s being just, or say what practical reasoning is without explaining why, on Aristotle’s view, no one can be practically rational who is not just. 29

Though, MacIntyre assigns the Aristotelian theory of justice in “goods of excellence”, it will be unfair to ascribe Aristotle’s theor; as unabashedly epistemic. In fact, there is a duality in Aristotle’s thinking between epistemic and existential categories. Many of Aristotle’s conceptions can be deemed as existential, for instance the origin of the state. But this duel culminates the in the victory of epistemic over existential. Perhaps this is due to the teaching of Plato. This duel between existential and epistemic category is best reflected in Aristotle’s ideas on the origin of the state, which is to be traced to the natural gregariousness of the individual. The evolution of human nature involves companionship and cooperation with other individuals. Hence, Aristotle’s claim that “man by nature is a political animal”. His tracing of the evolution of the state from family, to village and ultimately culminating in state, has a predominant teleological thrust (which reveals his epistemic biasness), but the delineation into three sociological phases nevertheless shows his existential belief: 30 Family comes into being for the supply of daily wants. But family is not sufficient, many families together to form a village which is more advanced than the family. Yet it did not satisfy man’s need for a moral

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29 Ibid., p. 103. It is noteworthy MacIntyre’s avowed goal is to explore how practical rationality contributes to and constructs conception of justice.

30 Aristotle argues in Politics that those thing which can’t exist independently, have to unite as a pair e.g. male and female and “that which naturally rules and that which is ruled, for preservation. Thus it was from there two associations that a household first arose, and Hesoid was right in his poetry when he said, ‘First of all a house and a wife and an ox to draw the plough’. (The ox is the poor man’s slave) So the association formed according to the nature for the satisfaction of the purposes of every day is a household, the members of which Charondas calls ‘bread-fellows’, and Epimenides the Cretan ‘stable-companions’. The first association, from several households, for the satisfaction of other than daily purposes is a village. The village seems to be by nature in the highest degree, as a colony of a household- children and grand children, whom some people call ‘homagalactie’. This is why states were at first ruled by kings (as are the nations to this day): they were formed from persons who were under kingly ruler. For every household is under the kingly rule of its most senior members; so too the colonies, because of the kinship. The complete association, from several villages, is the state, which at once reaches the limit of total self-sufficiency, so to say. Whereas it comes into existence for the sake of life, it exists for the sake of the good life”. Ultimately, Aristotle caps his sociological origin of the state with metaphysical teleological end. Aristotle, *Politics Book I and II*, trans. Trevor J. Saunders (Oxford, 1995), pp. 2-3.
nature, which can be fulfilled only in a state. It is ironical that when Aristotle’s pupil Alexander was transcending city states and seeking to establish an empire, Aristotle himself was caught in time warp. Believing the state to be the highest form of evolution, Aristotle believed in the teleological concept of change.

This duel between essence and existence was informed by Aristotle’s metaphysical belief in form or matter. As biology influenced his metaphysics, he asserted that man was a form which influences the embryo to develop into a matter. Will Durant notes, “everything in the world moves naturally to a specific fulfillment. Of the varied causes which determine an event, the final cause, which determines the purpose, is the most decisive and important”. Despite assigning determining factor to the final cause, Aristotle still, unlike Plato, was willing to give more autonomy to the individual. Sarton, pointing to the interlink between form and matter, essence and existence, or episteme and existence, notes that,

Aristotle realized that mechanism and purpose are complementary and inseparable aspects; in the study of nature one must seek for a mechanical explanation or for the leading reason; sometimes the mechanism is clearer, sometimes the reason. In his time practically no mechanism (for example, a physiologic mechanism) was conceivable; hence, there remained only the teleological explanation.

Aristotle sees distributive justice as enjoining proportionate equality. He contests in *Nicomachean Ethics*, the view maintaining reciprocity. Rather, “the ground of it

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31 Durant, n.25, p.70. Aristotle had a teleological concepts of change, where all change was guided towards a predetermined goal. However, this goal was internally determined rather than God. As Will Durant, argued, “this metaphysics grew out of his biology. Everything in the world is moved by an inner urge to become something greater than it is. Everything is both the form or reality which has grown out of something which was its matter or raw material; and it may in its turn be the matter out of which still higher forms will grow. So the man in the form of which the child was the matter; the child is the form and its embryo the matter; and so back till we reach in a vague way the conception of matter without form at all. But such a formless matter would be no-thing, for everything has a form. Matter, in its widest sense, is the possibility of form, form is the actuality, the finished reality, of matter. Matter obstructs form constructs. Form is not merely the shape but the shaping force, an inner necessity and impulse which moulds mere material to a specific figure and purpose; it is the realization of a potential capacity of matter; it is the sum of the powers residing in anything to do, to be, or to become. Nature is the conquest of matter by form, the constant progression and victory of life.” p. 70.


33 Aristotle, *Nicomachean Ethics*, by J.A.K. Thomson (Harmondsworth, 1953). Aristotle cites example of untenable reciprocity, when superior striking a junior, would entail, a return strike from junior. Further, in a deal between shoemaker and builder, there is needed a comparable proportionate standard, otherwise, reciprocity will be in equal and unfair. Aristotle maintains currency or money, thus serves a comparable standard.
[reciprocity] is not equality but a proportion". Hence, justice is treating equals equally and unequals unequally. Any society aims for good. The proportionate equality should be adjudged only by its contribution to political good. Hence, only those contributions are worthy, which contribute in the development and maintenance of state. As Aristotle, maintains

greatest and most good is the end of the most sovereign of them all, which is political ability. The political good is justice, and that is the common advantage .... it is clear tha. in politics also it is reasonable not to claim office on the ground of any and every inequality. Differences in speed, for example do not entitle a person to more political power; they get their reward in athletic competitio. The claim must be based on a difference in something that helps to constitute a city. Hence it is reasonable for the noble and free and rich to claim the honour, because the citizens must be free and have taxable property; a city could not consist entirely of needy persons, any more than of slaves. And, if those attributes are necessary, evidently justice and political goodness are necessary too. Without these, also, a city cannot go on. Or, rather, without the former, it cannot exist, and without these it cannot go on well.34

In the construction of this political good, the contribution of women and slaves is neglected. In fact, due to their "natural" inferiority, they are incapable of contributing to the epistemic teleological advance of the state. Aristotle held to the view that women do not have control over their emotions. Slaves were excluded from citizenship because they were incapable of ruling themselves. As Bernard Yack maintains

All of these appeals to nature to measure the justice of social relationships concern the existence, or lack thereof, of natural capacities to participate

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34 Aristotle, Politics Books III and IV, trans. Richard Robinson, (Oxford, 1995), pp. 40-2. Aristotle points out that different constitutions reward different qualities, e.g. aristocracy on virtue, or oligarchy on riches. As William Mathie, notes, "though the question of the best regime as a matter of political justice must be answered with a view to the specific circumstances under which it arises, we are led to expect that in most cases political justice will be satisfied only by a regime within which several kinds of claims obtain partial recognition.... Just as the character of the good, constituted by a share in ruling, precludes our treatment of the question of regimes as a matter of distributive simply and facilitates a solution of this question otherwise unobtainable, so the claim of virtue to which Aristotle assimilates the other claims to rule is an excellence that can only be realized in relation to the common good. Indeed, the realization of this excellence is the common good. Unlike the property of the wealthy, the use of which can be more or less directed to the common goods, the possession of the virtuous on the basis of which they have a title to rule is a "common excellence" (komonike arête) so much so that Aristotle now calls their virtue "justice". This "justice" of the virtuous is, of course, not merely that justice which consists in taking no more that one's share, but rather justice as it encompasses complete virtue in relation to others, a justice which "necessarily brings with it all of the other virtues." in William Mathie, "Political and Distributive Justice in the Political Science of Aristotle", in Subrata Mukherjee and Sushila Radhaswamy, eds., Great Western Political Thinkers: Aristotle (384 BC – 322 BC), (New Delhi, 1993), pp. 212-13.
in political communities. The lack of fully developed capacities for rational deliberation in slaves, women, and children justifies their subordination, in different ways, to the free adult males who are members of the political community. The possession of such capacities entitles one of share in political community and the determination of the content of political justice.\footnote{Bernard Yack, “Natural Right and Aristotle’s Understanding of Justice”, in Subrata Mukherjee and Sushila Ramaswamy, eds., Great Western Political Thinkers: Aristotle (384 BC – 322 BC), (New Delhi, 1993), p. 264. Yack further points out that, “Aristotle makes two important arguments about the relationship between nature and justice. In the first, he claims that nature has equipped human beings with capacities that allow them to make and share a particular kind of judgement about justice, which he calls natural right. In the second, he claims that natural distinctions of gender, age and mental capacity allow us to determine that free adult males are the members of the human species so equipped to engage in such judgement” (p. 265) On denial of citizenship to women and slaves, MacIntyre points out that, “Aristotle’s mistake, and the mistake of others who have reasoned similarly, was not to understand how domination of a certain kind is in fact the cause of those characteristics of the dominated which are then invoked to justify unjustified domination.” See p. 26 p. 105. MacIntyre, argues that these thoughts can be discarded from his thought, without prejudicing his views on the polis. But, we see exclusion and limit as intrinsic to epistemic theorising. For similar views see Chapter 4 in Susan M. Okin, women in western Political Thought (Princeton, 1979).}

**Modern Theories of Justice**

The prime difference between ancient and modern theories of justice is that while ancient justice was subservient to metaphysical conceptions, the latter was oriented towards more mundane matters. In fact, this segregation was reflective in MacIntyre’s bifurcation of theories of justice into categories as “goods of excellence” and “goods of effectiveness”. The utterly mundane theory of justice is utilitarianism.

**Liberal Theory of Justice: Utilitarianism**

Jeremy Bentham, father of utilitarianism, propounded his political theory as a standard to put together sound legislation.\footnote{Even though utilitarian ideas were dominant in mid-eighteenth century England. Thinkers like, Hutcheson, Hume, Helvetius, Priestly and William Paley have influenced Bentham. But it was Bentham who formulated it as a political doctrine to which had to serve as standard for the judging of political practices and legislations. Jeremy Bentham, An Introduction to the Principles of Morals and Legislation. J. H. Burns and H.L.A. Hart, eds., (London, 1970).} As Sabine notes,

Terms like rights, property, the crown, the general welfare, are all liable to fictional use, and usually for defending vested interests. From Bentham’s point of view any corporate body such as society or the state, is evidently fictitious. Whatever is done in its name is done by someone, and its good, as Bentham said, is “the sum of the interests of the several members who compose it”. The utility of the greatest happiness principle, therefore, consists in the fact that it is the great solvent of fictions, for it means that
the real significance of a law or an institution must be judged in terms of what it does, and so far as possible to specific individuals.\textsuperscript{37}

According to Kymlicka, there are two important aspects of utilitarianism, “first the goal which utilitarians seek to promote does not depend on the existence of God, or a soul, or any other metaphysical entity. Some moral theories say that what matters is the condition of one’s soul, or that one should live according to God’s Divine Will, or that one’s life goes best by having everlasting life in another realm of being”.\textsuperscript{38} Secondly, it’s consequentialism, which postulates that any policy or action should be judged by its consequences for individual lives, thereby opposing arbitrary moral standards being imposed upon individuals. Human welfare or utility should be the sole judge of policies. As Kymlicka further maintains

consequentialism also seems to provide a straight forward method for resolving moral questions. Finding the morally right answer becomes a matter of measuring changes in human welfare, not of consulting spiritual leaders, or relying on obscure traditions. Utilitarianism, historically, was therefore quite progressive. It demanded that customs and authorities which had oppressed people for centuries be tested against the standard of human improvement ("man is the measure of all things;"). At its best, utilitarianism is a strong weapon against prejudice and superstition providing a standard and a procedure that challenge those who claim authority over us in the name of morality.\textsuperscript{39}

Utilitarianism in general and Benthamite utilitarianism in particular, stands out for its minimum emphasis on epistemic categories. Though it had been reviled for its hedonism, even for being a “pig philosophy”, it was notable for its progressive features, quite ahead of its time. For example, Bentham opposed slavery, favoured women

\textsuperscript{37} George H. Sabine, \textit{A History of Political Theory}, rev. Thomas L. Thorson, (New Delhi, 1973), p. 616 Benthamite utilitarianism discarded the talk of anything intuitive like natural rights. He said, once "natural rights is simple nonsense natural and imprescriptibly rights, rhetorical nonsense – nonsense upon stilts." Bentham observed that, “nature has placed mankind under the governance of two sovereign masters, pain and pleasure.” Bentham, further, believed that pleasure and pain are quantifiable, and same amount of pleasure can balance out the same amount of pain. There is no qualitative difference between pleasure and pain, where "pushpin is as good as poetry." Bentham devised a "felicific calculus": Pleasure can be measured by taking into account, intensity, duration, certainty or uncertainty, propinquity or remoteness, fecundity and purity. (emphasis added)


\textsuperscript{39} Ibid., p. 12.
suffrage and repudiated colonialism. Bentham’s views on colonialism were surely ahead of his time.\textsuperscript{40} He favoured England to promote self-government within the colonies.

Benthamite philosophy argued that each individual was to count as one and none more than one. The aim of the state and legislation should be to promote the greatest good of the greatest number of the community, though Bentham does not give reasons why this principle of greatest good of the greatest number should be restricted to nation-states and not to the whole world community. Nevertheless the fact that he opposed colonialism and urged colonisers to promote self-government and build colonies areas of happiness should not be disregarded. Jean Hampton reformulated utilitarianism in a mathematical formula.\textsuperscript{41}

\[
\text{Maximise } \sum_{i=1}^{n} u_i
\]

\[u_i = \textit{utility of a society in a society of } n \textit{ people}\]

This is the classical utilitarianism, as obvious from the formula itself, total utility can be increased by increasing population of the people. In order to obviate this, average utilitarianism was put forward. It can be mathematically represented as

\[
\text{Maximise } \frac{1}{n} \sum_{i=1}^{n} u_i
\]

\textsuperscript{40} Bentham favoured women’s right to vote and participate as equals in the government. He opposed traditionally held views that women were inferior. He argued in Plan for Parliamentary Reform, for women’s suffrage, though he withdrew it in Constitutional Code, as time was not conducive. Since men would oppose women’s suffrage. He also favoured right to divorce for women. Proper education would cure of the ills associated with women being, docile and immature, instead make them autonomous and enlightened individual. However, Ball argued that Bentham, withdrew the demands for empowerment of women. As he himself accepted that time was not conducive for the radical demand of women’s suffrage. Women’s ability to rationally take active part in politics was questioned. T. Ball, “Utilitarianism, feminism and the franchise: James Mill and his critics”, History of Political Thought, vol. 1, 1980.

\textsuperscript{41} Jean Hampton, Political Philosophy (Delhi, 1998), pp. 124-5. Classical and average utilitarianism are similar, differing only in the point that increase in total utility can’t be increased by increase in population. As Hampton, points out, “an average utilitarian will divide the sum of the utility of the members of society by n (the number of people in that society), he will refrain from maximising utility simply by adding large numbers of new people to the society. To see why, consider what would happen if one tried to increase total utility by increasing the population. With every new person, the number \textit{n} would increase, until eventually \textit{n} would grow so large and the utility yield from each additional person would be so small that the sum of utility divided by \textit{n} would start to decline. So the average utility is not the view that society should maximize each person’s “average” welfare but is actually identical to Bentham’s utilitarian view, with the exception that it puts a brake down on trying to increase total utility by massive unconstrained population increases.”, p.125 (emphasis in the original)
However the raging debate is over how to define utility. Traditionally utility has been seen in terms of hedonism. Bentham defines utility as,

[a] property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness (all this in the present case comes to the same thing), or (what comes again to the same thing) to prevent the happiness of mischief, pain, evil or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.42

More often, than not, utility has been defined in terms of the hedonistic principle of “the greatest happiness of the greatest number”. Kymlicka terms this popular slogan as “misleading” since it can’t have two maximands. Kymlicka identifies four distinct views of utility, viz., welfare hedonism, non-hedonistic mental–state utility, preference satisfaction and informed preferences. Welfare hedonism is the most popular and influential of the utility definitions. It advocates “that the experience or sensation of pleasure is the chief human good”. This is the end itself, which all other policy and actions are meant to promote. It gave rise to the popular slogan of Bentham’s, “pushpin is as good as poetry”.43 This was responded to by J.S. Mill who argued that it is better to be “Socrates dissatisfied than to be a pig satisfied”.

The other type of utility is “non-hedonistic mental state utility”. It unlike the previous utility, does not focuses solely on pleasure or happiness. But favours all types of mental experiences as valuable. For example, if anybody prefers writing poetry so be it. But critics have questioned this asking that if a machine were to deliver different experiences, would it be worthwhile to live such a life. The third distinctive understanding of utility is that of “preference satisfaction”. Increasing utility means the satisfying of people’s preferences. If people want the experience of poetry, they can go to the machine, but if they want to write poetry they can still do so. Utilitarians favour satisfaction of all preferences, there is no hierarchy in it. Critics have slammed this version of utility for,

42 Bentham, n. 36, p.12.
43 Because of its pleasure centrism, utilitarianism was exposed to trenchant criticism. Kymlicka cites the case of poets who find writing painful and stressful yet they continue with their passion. Describing all activities as pleasure driven is mistaken. As critics point out if by any neuropsychological means, it is possible to impart pleasure to an individual continuously. It would not be an example of worthy life.
Preferences, (therefore) do not define our good. It is more accurate to say that our preferences are predictions about our good... If people adapt their preferences to what they can realistically hope to achieve, then even a repressive society that denies important opportunities for fulfillment to large numbers of people may nonetheless do well in satisfying people’s (adapted) preferences.  

Finally, the fourth and final version of utility is of “informed preferences” which enjoin satisfaction of informed choices or preferences. But it is difficult to measure or quantify informed preferences. Further, the conflict of priority between two informed preferences can’t be solved.

Sidgwick accepts that “it [utilitarianism] appears to be applied to several distinct theories, having no necessary connexion with one another, and not even referring to the same subject matter.” Sidgwick distinguishes between “Egoistic Hedonism” and “Universalistic Hedonism”. His is the ethical theory of “universalistic hedonism”. He defines utilitarianism as “the ethical theory, that the, conduct which, under any given circumstances, is objectively right is that which will produce the greatest amount of happiness on the whole; that is, taking into account all whose happiness is affected by the conduct”. The idea to be noted is that whatever be the merits of utilitarian principles of justice, they should be appreciated for their universal character. As Sidgwick himself notes,

are we to extend our concern to all the beings capable of pleasure and pain whose feelings are affected by our conduct? Or are we to confine our view to human happiness? The former views is the one adopted by Bentham and Mill, and (I believe) by the utilitarian school generally: and is obviously most in accordance with the universality that is characteristic their principle. It is the Good, universal, interpreted and defined a ‘happiness’ or ‘pleasure’, at which a utilitarian considers it his duty to

44 Kymlicka, n.38, pp. 15-16. Kymlicka cites an example. Where in a group of people some want pizza others want Chinese food. If most satisfaction can be got only through pizza, then even Chinese food lovers have to eat pizza. Also, people may mistakenly pursuing unworthy preferences which they might regret later. Preference satisfaction utility, holds that people prefer things because they are good. Infact, it is reverse the case, good is to be preferred. Relatedly the problem is of “adaptive preferences, where individuals adopt their preferences, to the facility of their achieving it. As in case of slaves, or women, they may come to be satisfied with their subjugated position.
46 Ibid. p.411.
aim: and it seems arbitrary and unreasonable to exclude from the end, as so conceived, any pleasure of any sentient being.\textsuperscript{47}

It was under this universal thrust that Peter Singer advocated rights for animals too, on the principle of utility. The utilitarian theory is more favourable to global justice. But Sidgwick is conservative, when he argues that

The doctrine that Universal Happiness is the ultimate \textit{standard} must not be understood to imply that Universal Benevolence is the only right always best \textit{motive} of action. For, as we have before observed, it is not necessary that the end which gives the criterion of rightness should always be the end at which we consciously aim: and if experience shows that the general happiness will be more satisfactorily attained if men frequently act from other motives than pure universal philanthropy, it is obvious that these other motives are reasonably to be preferred on utilitarian principles.\textsuperscript{48}

The utilitarian notion of justice involves the Benthamite principle of each person counting as one, and none more than one in the distribution of happiness. Sidgwick, discussing justice, comes to the conclusion that

\begin{quote}
The prominent element in Justice as ordinarily conceived is a kind of Equality. That is, Impartiality in the observance or enforcement of certain general rules allotting good or evil to individuals.\textsuperscript{49}
\end{quote}

\textsuperscript{47} Ibid, p. 414. (emphasis in the original) Sidgwick accepts that it is difficult already to compare happiness of one person to another. Now, with inclusion of all sentient beings it becomes all the more difficult. As Sidgwick notes, “it may be said that by giving this extension to the notion, we considerably increase the scientific difficulties of the hedonistic comparison... for if it be difficult to compare the pleasures and pains of other brutes. But even if we limit our attention to human beings, the extent of the subjects of happiness is not yet quite determinate”. p. 414.

\textsuperscript{48} Ibid, p. 413(emphasis in the original).

\textsuperscript{49} Ibid, p. 293-4, Further as Sidgwick maintains, “But when we have clearly distinguished this element, we see that the definition of the virtue required for practical guidance is left obviously incomplete. Inquiring further for the right general principles of distribution we find that our common notion of Justice includes besides the principle of Reparation for injury two quite distinct and divergent elements. The one, which we may call conservative justice, is realized (1) in the observance of law and contracts and defined understandings, and in the enforcement of such penalties. For the violation of these as have been legally determined and announced; and (2) in the fulfillment of natural and normal expectations. This later obligation, however, is of a somewhat indefinite kind. But the other element, which we have called Ideal Justice, is still more difficult to define; for there seem to be two quite distinct conception of it, embodied respectively in what have been called the Individualistic and the Socialistic Ideals of a political community. The first of these takes the realization of Freedom as the ultimate end and standard of right social relations: but on examining it closer we find that the notion of freedom will not give a practicable basis for social construction without certain arbitrary definitions and limitation: and even if we admit these, still a society in which freedom is realized as far as is feasible does not completely suit our sense of Justice. \textit{Prima Facie}, this is more satisfied by the socialistic Ideal of Distribution, founded on the principle of requiting Desert: but when we try to make this principle precise, we find ourselves again involved in grave difficulties; and similar perplexities beset the working out of rules of Criminal Justice on the same principle.”pp.293-4.
The utilitarian view of justice is very commonsensical, emphasising the satisfaction of peoples’ preferences. A person can trade his preference satisfaction now in favour of a bigger satisfaction later. A just society is one which ensures maximum satisfaction. Hume also favours the utilitarian theory of justice, which is notable for its unidealistic and non-metaphysical nature focusing upon satisfaction of preferences. Hume regarded justice as an artificial virtue. As Hume was an empiricist, so was his moral epistemology. He denied that it is reason which expicates moral distinctions, but rather moral sense that gives us awareness of moral distinctions. Similarly, justice can’t be said to be a “natural” virtue, made of unchanging features holding out for posterity. He agrees with Hobbes in maintaining that justice is a human contrivance holding out in the conventions and customs of the respective society. Justice is an artificial virtue, it is a contrivance to make good deficiencies in human conduct which makes society unstable.

According to Hume,

There is no motive prompting men to be just, other than the sense of justice or duty, which shows that our sense of justice is not derived from nature, but is produced by education and convention; those motives which make an action naturally virtuous are praised or blamed according as to how nearly they are possessed in their usual strength; though justice is an artificial virtue, rules of justice are natural in the sense that it is inevitable that men should have invented them, and it is consequently not improper to describe them as Laws of Nature.\(^50\)

Hume’s belief in justice as an artificial virtue stems from his belief that there can be no natural action unless there is a corresponding motive. Justice as an artificial creation in customs and conventions produces such motive. As Jonathan Harrison notes, “it is clear

\(^50\) Jonathan Harrison, *Hume’s Theory of Justice* (Oxford, 1981), p.1. Harrison complies a précis of *A Treatise of Human Nature*, from where this citation has been cited. Hume maintains that a virtuous action is so because of motive. According to Hume, “hence no action can be virtuous unless there is first in men some motive which produces it other than the desire to do it because it is virtuous; though an action may be done from a sense of duty alone, there must be some motive which usually prompts men to perform actions of this kind (though it is lacking in this case) or this action would not be a duty; where justice is concerned, however, there is no motive preceding the regard for justice itself, which by prompting men to perform just actions makes just actions meritorious.” (p.1) Hume cites three reasons why justice can’t be natural since, first any action can’t be guided because of love of mankind, since “there is no such passion” (please note, Hume believed in empiricism). Secondly, “private benevolence” can’t be a motive which makes justice as natural, since even if there is no “private benevolence”, the claims of justice stands. Thirdly, even “if private benevolence were the motive which made justice a virtue, one could not explain why one has a more stringent obligation not to take away a man’s property than one has to give him something of the same value.” p.1.
that Hume did think that, antecedently to the establishing of human conventions, there was no motive to justice. Since there would be no such things as justice or injustice before human conventions establishing a justice were set up, there could, a fortiori, he no motive to perform acts of justice before there were such conventions.  

Even though Hume accepts justice as artificial, he does not say that it is arbitrary. Since man is by nature inventive, therefore justice is natural. Distinguishing between natural and artificial virtues, Hume argues that "the only difference betwixt the natural virtues and justice lies in this, that the good, which results from the former, arises from every single act, and is the object of some natural passion: whereas a single act of justice, considered in itself, may often be contrary to the public good; and it is only the concurrence of mankind, in a general scheme or system of action, which is advantageous."  

Commenting on Hume’s conception of justice and its philosophical underpinnings, Duncan Forbes notes

What Hume put before his contemporaries therefore was an exclusively secular because exclusively empirical (or the other way round) version of the fundamental principles of natural law, an attempt to lay the foundations of a science of morality and law in a science of man which had no need of the religious hypothesis, or for that matter of the atheistic hypothesis of Hobbes, which had thrown off ‘all prejudices’, and was ‘consistent’, as Grotius and Pufendorf were not. Being exclusively empirical and secular is what made Hume’s account ‘consistent’, and what distinguishes it from the ‘empirical’ theory of natural law of Hutcheson and the authors recommended by Hutcheson: Pufendorf, Locke— if or in so

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51 Ibid., p. 7. (emphasis in the original) However Harrison rue’s contradicitoriness in Humean Justice. He notes, “unfortunately however, Hume also tries to prove that there is no motive which leads us to justice, independently of a sense that it is our duty to be just, even after human conventions have been set up.” (emphasis in the original, p.7) Subsequently, accounting for this inconsistency, Harrison, concludes that, “These arguments do not establish that there is no motive to justice, whether antecedently to the setting up of human conventions establishing it or not. What they establish is that there is no motive which invariably prompts men to perform just acts. Hence Hume might be thinking, as he argues explicitly later, that though there are human motives prompting men to be just, they work only intermittently, and so cannot explain why we demand a rigorous and invariable observance of rules of justice. Incidentally, Hume could have argued, though he does not, that if there is no motive which prompts men to be just, even after rules of justice have been established, there can a fortiori be no such motive before they have been established.” (emphasis in the original), p. 8.

52 Cited in ibid., p. 23. For example, benevolence is a natural virtue, and its performance is singularly beneficial to the receiver. But as justice is an artificial virtue, its adherence may not benefit any body at all. For example, it is unjust to take a properly from a miser, even if its taking gives filip to industry and commerce. Hence, the good which arises from justice arises from a rule’s being inflexibly adhered to, even in circumstances when adhering to it does more harm than good. We see it not observed in this rigid way, the benefits from having the rule would be destroyed; if having rules of justice is to be beneficial at all, these rules must be applied even in cases when applying them is not beneficial.” p.23.
far as Locke’s is or was meant to be an ‘empirical’ theory of natural law and the rest. It meant pruning the idea of justice of its universal or superior meaning, as also the idea of society as the society of rational beings as such, for whom justice means promoting the good of the whole and giving every one his due in the light of it. Justice could not be defined as giving every one his due until what was everyone’s due had been established and defined by ‘convention’: the ‘convention’ therefore came first and could not be explained in terms of justice: it explained the notion of justice, not vice versa. So justice was what Hume called an ‘artificial’ virtue.  

Hume’s theory of justice as artifice is influence by his epistemological assumptions of scepticism, wherein he questions the claim of getting at a concrete rationally proved knowledge. As Whelan notes, “the philosophical skepticism that Hume develops is the, he says, that arises “consequent” to inquiry into the foundations of human understanding; it is founded in doubts regarding the possibility of rationally validated knowledge, or the discovery of the “unfitness” of our “mental faculties” to attain certainty on speculative subjects, that is encountered in the course of epistemological analysis.”  

It was under this ontological belief of justice as artifice that Hume similarly stressed on artificeness of our moral world. Hence, he did not endeavour to portray an utopian pathway towards a desired moral end. Thus, were his utilitarian principles derived. He, like other utilitarians, judged those states and institutions to be right which promoted pleasure or happiness. Like most of the utilitarians, he did not distinguishes

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53 Duncan Forbes, *Hume's Philosophical Politics* (Cambridge, 1975), p.69. Hume purported to take experimental method as enjoined in empiricism, in the study of both politics and moral subjects. As over the years academicians have begun to realize the importance of subtitle of the *Treatise of Human Nature*, which read as “being an attempt to introduce the experimental method of reasoning into moral subjects”. It was in pursuance of this experimental method that Hume failed to find motive (or passion) for justice in human mind. “There was in human nature no such thing as love of humanity as such. The moral imperative to promote the good of the whole system of rational agents, the classical definition of justice as *sum cuique tribuere* had no empirical foundation. There is no natural motive to the performance of acts of justice: no simple original instinct for property which is object of justice... Hume argues that for an act to be moral, there has to be a motive considered good independently of the sense of virtue of the action, and his difficulty was to find one in the case of justice, because there is no natural inclination to be just. Analysis of justice showed that the passion involved was contrary to just action and socially destructive, in itself: it pointed the wrong way. Justice and hence human society was possible because the socially destructive passion was redirected by the understanding; reason acting obliquely on the passion, as always in Hume’s account of the relations between reason and passions.” p.69. As Hume’s famous remark, “reason ought to be the slave of passions” well exemplifies this.

54 Fredrick G. Whelan, *Order and Artifice in Hume’s Political Philosophy* (Princeton, 1985), p. 15. Whelan maintains that Hume’s political philosophy is an integral part of his philosophy. As he noted, “the main elements of Hume’s political philosophy constitute an integral part of his philosophical system as a whole.”
between pleasure and happiness. His skepticism of rationally validated knowledge pointing towards a teleological pathway, made him evaluate moral beliefs as to their beneficial effect. However, Humean utilitarianism is different from classical utilitarianism. Classical utilitarianism is known for providing standards for solving ethical and policy dilemmas, i.e. judging clash over actions and adjudicating, which will lead to greater happiness. Classical utilitarianism favoured aggregative means. As Whelan notes, “in its classical form utilitarianism prescribes not simply actions that have beneficial consequences but more precisely those actions that in the given circumstances will result in the greatest general happiness, aggregating the pleasures and pains of all affected individuals.” Humean philosophy had no such imperative. In fact, his belief in utility led him into conservative ideology, appraising and appreciating existing conventions and beliefs on the usefulness criterion. His utilitarianism was amorphous and diffuse, hence, it could have easily withstood the criticism of contractarian theorists. Contractarian theories of justice criticise classical utilitarianism and its many variants for their aggregative impulse, which dissolves distinction between persons. As Whelan points out

Hume’s endorsement of the principle of utility provides him with a general method of ethical justification, but it does not give him the precise means of solving specific dilemmas that arise in moral and political life, such as the central conflict between justice and benevolence, where long range considerations of social utility as advanced through observance to relieve hardships in an immediate case: Hume’s solution to this problem, as we shall see, rests on other considerations. The absence of a maximization imperative also means that Hume is not confronted directly by many of the difficulties that arise within classic utilitarianism: Hume does not address for example, the problem of whether happiness is to be maximized collectively or distributively; the problem of the scope of utilitarian obligation, both temporally and in terms of the range of ostensible beneficiaries; and the problems relating to the comparability and quantification of types and degree of happiness necessary for the fulfillment of the injunction to promote the greatest possible good.

55 Ibid., p. 213. Humean thought is pervaded by the belief that various virtues, customs and conventions come into existence for their need and beneficial effects. Hence, the conservative tendency in him. According to Whelan, “most virtues are qualities that are valued for their beneficial effects, which may generally be described as increases in the “happiness of mankind”, the two principal categories of virtues (benevolence and justice), in particular, fall clearly within the general utilitarian account.” p. 212.
56 Ibid., p. 213. The quantitative and aggregative aspect of utilitarianism was the defining feature of Bentham, impelling him to devise felicific calculus. The exact science of utilitarianism was to be key

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The logical fallout of Humean utilitarianism is his stress on property relations which enjoin, according to Hume “three fundamental laws of nature” viz., order and stability in property accession and retention, laws on transfer of property by consent and holding of promises. Echoing Hume’s emphasis on property, MacIntyre notes that “the contrivance of the artificially constructed institutions of justice and property... are so intertwined that one cannot have the one without the other.” Further, the aim of MacIntyre is to emphasise the inter-linkage between Hume’s practical rationality and the concept of justice. Pointing to the parallel between Hume and Aristotle’s political theory, MacIntyre emphasises

Instrument for political reform (making of legislation and panopticon). Utilitarianism’s defining feature is its calculative aspect. But this calculation implied causality, on which Hume’s views were sceptic. Whelan notes, “such reasoning certainly enters into ethical justification in Hume’s ethical theory, but his recognition of the difficulties of establishing causality and predicting consequences in the “moral” sciences seems at variance with the assurance that Bentham exhibits and that is perhaps necessary for the practical business of reform. In any case, his doctrine does not so rigorously prescribe the achievement of the greatest possible happiness in all cases, thereby removing the need for precise calculations. Hume’s position, in contrast to Bentham’s, lends itself less to unceasing criticism and reform: its demands are more modest; its prescriptive aspect is subordinate to its attempt to grasp the logic of ordinary moral judgements, which provide the naturalistic context for its standard; and it is allied with a skepticism that generally rules out claims of knowledge of the sort that would be required for definitive solutions to many moral or political disagreement.” (p. 214) Further, Hume’s utilitarianism differs from Bentham’s in that it gives values to motives apart from their consequences; the focus on consequences measured in terms of pleasure pain as Whelan emphasises, “Hume adheres more closely to the ordinary moral sense in acknowledging “good intentions” and “benevolent affections” as virtuous in themselves: analysis reveals that all virtues have a “tendency to produce happiness, but consideration of actual or probable consequences does not always enter into the mental process of judgement. Inefficacious virtue or “virtue in rags”, remains virtue nonetheless.” (p.214) Further, Whelan, emphasising distinction between Benthamite utilitarianism and Humean utilitarianism notes that, “the final qualification concerns the relation of Hume’s utilitarianism to his contention that the “moral sense” (or moral sentiment) is the origin of moral distinctions and judgements. Hume stands at the juncture of these two currents in British ethical thought, which has often been interpreted as contrary positions. Bentham, in defending utility as the sole standard of morality, explicitly rejects theories of “moral sense,” and modern analytic philosophy contrasts the utilitarian concept of the “rightness” of actions, defined in terms of consequent happiness with the “subjectivist” concept, defined in terms of feelings of approval. In Hume’s moral philosophy, however, there is no such dichotomy the moral sense as the inner, affective approbatory faculty constitutive of value is combined with the principle of utility as descriptive of things generally approved; the two elements are portrayed for the most part as complementary and coincident.” p. 215.

57 MacIntyre, n. 26, p. 309 Hume argues that there are two contrary passions governing interlinkage between justice and property, one positive and the other negative. As MacIntyre, emphasises, “we and everyone else want one the one hand to be able to prosecute our ends whatever they are, within a framework which provides peace, order, and stability in the transactions and exchanges of social reciprocity; we and everyone else are, however, also on occasion moved by the immediacies of particularity and self-interest to disrupt that peace, order, and stability. We suffer, that is, from contrary passions. Nevertheless, reason assures us that it is by giving the primacy to the former set of passions and by controlling and if necessary, frustrating the latter that our and everyone else’s most extensive and enduring satisfaction will be achieved. So Hume concludes that “however single acts of justice may be contrary, either to public or private interest, it’s certain, that the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual.” p. 309.
Both present an account of practical rationality according to which the individual who reasons rightly does so *qua* member of a particular type of political society and not just *qua* individual human being. Both recognize of course that the kind of reasoning which merely matches means efficiently to ends can be exercised apart from membership in such a society is to have no standard available by which to correct the passions. On such central issues as the relationship of reason to the passions, the nature of standards by appeal to which the passions are to be corrected, and the structure of practical reasoning Aristotle and Hume have of course very different and largely incompatible views. But this incompatibility ought not to be allowed to obscure either the resemblances between their views or what those resemblances at least suggest: that practical rationality with a determinate structure is always informed by and itself the practices of some distinctive form of social order and that it is *qua* member of such a form of social order and not merely *qua* individual that someone exercises determinate practical rationality. If this hypothesis is correct, then the fact that to each determinate form of practical rationality there corresponds a determinate conception of justice- and Hume’s theorizing exhibits this connection as clearly as Aristotle’s does- assumes added significance. Some differences and disagreements over justice and some differences and disagreements over justice and some differences and disagreements over practical rationality will, if this hypothesis is correct, be inseparable. The two will express one and the same conflict between rival social allegiances. So those who disagree with each other radically about justice will not be able to look to some central conception of rationality, by appeal to which they will be able to decide which of them is in the right.\footnote{Ibid., p. 321.}

Despite the differences between Benthamite utilitarianism and Humean utilitarianism, they still form a part of classical utilitarianism. Utilitarianism has been trenchantly criticised on various points. However, a major cause of its troubles can be located in its epistemic categorisation of human life. Its epistemic character can be well gauged from the felicific calculus devised by Bentham to measure the quantity of pleasure. Pleasure can be measured by taking into account intensity, duration, certainty or uncertainty, propinquity or remoteness, fecundity or purity. Further, utilitarians classify all human experience into the homogeneous epistemic categories of either pleasure or pain. This belief was contested by J.S. Mill, who himself was a member of utilitarian school. Mill argued that it can be intuitively observed that there are pleasures which differ in value. No human individual will agree to become a beast, even if all the full pleasures of beastly existence can be assured. Hence, Mill concluded that "it is better to
be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied.”

Further, even if somehow a consensual definition of utility is arrived at, the focus turns on how the activity would be maximised since means are limited, and its consequentialism seeks to maximise utility, which can be undertaken through process, viz., direct utilitarianism and indirect utilitarianism. Direct utilitarianism requires, the actor himself to calculate the desirability of particular actions so as to result in maximum utility. Indirect utilitarianism enjoins actors to maximise utility by following non-utilitarian rules. But Kymlicka argues that the both (direct and indirect) suffer from same the fundamental flaws. Kymlicka points two major flaws in utilitarianism. Firstly, they

59 J. S. Mill, “Utilitarianism”, in Utilitarianism, Liberty and Representative Government, ed., H.B. Acton (New York, 1972), p. 9. Mill modified Bentham’s utilitarianism, so as to include other motives like moral, gregariousness, sympathy and other human virtues and characteristics. Mill argued that Bentham was wrong in dismissing individual character. Mill emphasised on importance of poetry, drama, painting and music in development of individual character. Mill divided every human action into three aspects, aesthetic, sympathetic and moral. Though, Mill continues to concern with the basic premises of utilitarianism, he distinguished between higher and lower pleasure, and asserted increase in pleasure through quality. However, Mill’s correction created more problems than it solved. According to Hampton, “yet note that if Mill is right, it is hard to reformulate the principle of utility so that it gives determinate answers. To do so we would have to formulate the different types of pleasure (differentiating the number and nature of high and low types) and define a way of measuring each type. Then we would have various numbers representing how much happiness each person would be experiencing. But once we do that, we become puzzled: which numbers (of which types) would we use when we tried to “maximize utility”? would we simply maximize higher pleasure? lower pleasure? Some mixture of the two? Wouldn’t we need some principle to tell us the answer, and wouldn’t that principle have to involve moral ideas that are prior to the principle of utility (such as “higher pleasure is the only pleasure relevant to a just society”), making the principle of utility either dependent upon or derived from these more foundational moral ideas? Mill never directly confronted these questions, so many theorists since have thought that his way of “fixing” utilitarianism makes it even more problematic and obscure that Bentham’s understanding of the theory.” See Hampton, n. 41, p. 127.

60 Kymlicka, n. 38. Kymlicka points out that traditionally utilitarianism assume that people has same moral relationship. For example, promise to pay back the lender, may not count in the calculation of maximum utility. For, “utilitarian reasoning disregards such backward-looking entitlements, for it says that only forward looking consequences matter.” (p. 23) But this is opposed to our intuitive moral sense to remedy this, many utilitarians emphasis on counting promise keeping as utility. These utilitarians, “point out the many byproducts of breaking a promise. For example, while someone other than the lender may be able to make better use of the money, the lender will feel resentment at being deprived of a promised benefit, a disutility so great that it outweighs the increased utility achieved by giving the money to someone else. But this gets things backwards. We do not feel that breaking promises is wrong because it produces feeling of resentment. Rather, cheating on promises produces feelings of resentment because it is wrong. Another utilitarian tactic is to point out that promises create expectations which people depend on. Moreover, failing to repay the loan will jeopardize a valuable social institution. So utilitarians respond by pointing out that repaying loans is more likely to maximize utility than one might initially think.” pp. 23-24. The second lacunae, on which Kymlicka focuses is of “illegitimate preferences.” For example, in an apartheid practicing society, white will always insist on segregation of blacks. Also, in a multicultural society, majority may be prejudiced towards minority. Hence, utility calculation may involve unjustified preferences.
ignore “special moral relationships” which put one under obligation, as in the case of blood relations and friends. Secondly, in calculation of maximum utility illegitimate preferences may give greater utility.

John Rawls also criticises classical utilitarianism as represented primarily in Sidgwick’s work. Rawls develops his contractarian theory of justice in comparison and contrast to the utilitarian theory of justice. Rawls is against the aggregative thrust of utilitarianism, which “does not take seriously the distinction between persons” which is an untenable position to take. Also, with respect to issues of right and good, utilitarianism as a teleological doctrine emphasises good over right, which is against the Kantian dictum of treating man as an inviolable moral agent, never used as a means, always as an end. As Rawls argues, “each member of society is thought to have an inviolability founded on justice or, as some say, on natural right, which even the welfare of every one else cannot override. Justice denies that the loss of freedom for some is made up by greater good shared by others.”

Hence, in any theory of justice the sacrifice of some can’t be justified (as in slave societies) to increase total utility. According to Rawls, utilitarianism does not differentiate between types and sources of satisfaction. As Rawls maintains, “in utilitarianism the satisfaction of any desire has some value in itself which must be taken into account in deciding what is right. In calculating the greatest balance of satisfaction it does not matter, except indirectly, what the desires are for.”

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61 Rawls, n. 1, p. 28. Rawls argues that there are two main concepts of ethics viz., right and good. Any moral theory should be evaluated on how it defines and interconnects these two. Classical utilitarianism is a teleological theory. Rawls argues that in teleological theories, “the good is defined independently from the right, and then the right is defined as that which maximizes the good... Teleological theories have a deep intuitive appeal since they seem to embody the idea of rationality. It is natural to think that maximizing something and that in morals it must be maximizing the good. Indeed, it is tempting to suppose that it is self evident that things should be arranged so as to lead to the most good.” (pp. 24-25). Utilitarianism in its teleological aim to maximise total utility disregards distinction between persons. According to Rawls, “the striking feature of the utilitarian view of justice is that it does not matter, except indirectly, how this sum of satisfactions is distributed among individuals any more than it matters, except indirectly, how one man distributes his satisfactions over time.” p. 26.

62 Ibid., p.30. Stressing on equal legitimacy of unjustified pleasures, Rawls, maintains that, “we are to arrange institutions so as to obtain the greatest sum of satisfactions; we ask no questions about their source or quality but only how their satisfaction would affect the total of well-being. Social welfare depends directly and solely upon the levels of satisfaction or dissatisfaction of individuals. Thus if men take a certain pleasure in discriminating against one another, in subjecting others to a lesser liberty as a means of enhancing their self-respect, then the satisfaction of these desires must be weighed in our deliberations according to their intensity, or whatever, along with other desires. If society decides to deny them
Hare defends utilitarianism against the criticism of diminishing marginal utility. Proponents of this criticism argue that keeping every thing else equal, wealth divested from the rich to poor increases utility. But according to Hare, “other things are seldom equal, and there are severe empirical, practical restraints on the equality that can sensibly be imposed by governments.”

Hare cites some of the practical restraints which prohibit re-distribution from the rich to the poor. It may remove the incentives to work, hence reduce the total goods to be distributed. Confiscation or very high taxation may not increase the total utility, since it will antagonise a whole segment of population, and act as a disincentive to the entrepreneurs. Hare distinguishes between three levels of thought, ethical, critical and intuitive. He criticises Rawls for talking on intuitive principles which are different for different people, therefore, do not have unconditional justification. Hare notes, “Rawls relies too much on his own intuitions which are open to question”. Hare further argues, “intuitions; prove nothing: general consensus proves nothing: both have been used to support conclusion which our intuitions and our consensus may well find outrageous”. Hence, the need is for a principle which has the highest acceptance. This can only be at a substantive level, which the principle of utility seeks to provide.

Similarly, arguing against the formalism or “criterionless” conception of rights, James Griffin favours more substantiveness. Griffin favours that, “structural features and substantive features have to arrive in a theory together.”

The conception of utility can add to the criterionlessness of rights.

fulfillment, or to suppress them, it is because they tend to be socially destructive and a greater welfare can be achieved in other ways.” pp. 30-31.

63 R. M. Hare, “Justice and Equality”, in J. Arthur and W. Shaw, eds., Justice and Economic Distribution (Englewood Cliffs, 1978). Hare contrasting with Rawbian theory of justice argues that Rawls does not descends from intuitive theorising to critical appraisal. Since at intuitive level any principles can intuited upon, but their legitimacy will only be judged through their substantive effects on the group. Utilitarianism in its critical endevour seeks to widen the boundary to include egalitarian principles. Since formal justice can involve inequitable principles. According to Hare, “impartiality and formal justice alone will not establish that we ought to distribute the goods equally ... It is objected, for example, that people with white skins, if they claimed privileges in distribution purely on the ground of skin-colour, would not be offending against the formal principle of impartiality or universalsability, because no individual reference need enter into the principle to which they are appealing. Thus the principle that blacks ought to be subservient to whites is impartial as between individuals, any individual whatever who has the bad luck to find himself with a black skin or the good luck to find himself with a white skin is impartially placed by the principle in the appropriate social rank.” p. 122 (emphasis in the original).

64 James Griffin, “Towards Substantive Theory of Rights”, in R. Frey, ed., Utility and Rights (Minneapolis, 1984), p. 137. Griffin differentiates substantive theory at two levels. First level explicates on the values at which rights are grounded, viz., personhood, practicalities under personhood private sphere and equal
The purpose behind our discussion of utilitarianism, and its appraisal and criticism alike, is to show that utilitarianism is biased towards existential categories. The use of the word bias is deliberate: even in utilitarianism attempts were made to make it an epistemic theory, devoid of its existential features such as the attempt to devise a felicific calculus. Further, the categorisation of all human experiences under the rubric of pleasure or pain is an attempt towards giving the status of episteme. The non-distinction between pleasures is noteworthy, hence the criticism of its aggregative consequentialism, denying separateness of persons. The key feature and abiding importance as Sabine emphasised, was the categorical declaration that “any corporate body such as society or the state, is evidently fictitious.” Hence, the erection of boundaries (within the state or inter-state) may not have much philosophical basis. Human existence does not depend upon any metaphysically ordained teleological goal. Thus, the boundaries are only constructed. This belief in the state as a fictitious entity a universal thrust. As Sidgwick noted, the focus should be on sentient beings i.e. humans. This has been the predominant view of utilitarians. Although Singer includes animals under the rubric of sentient beings. At the international level, utilitarians have been predominantly asserting global justice. It wouldn’t be an exaggeration to say that these universalising proclivities are due to their regard. The second level of substantive theory analyses “the nature and structure of the values that rights protect”, viz., autonomy, liberty and equal regard. Griffin favours addition of utility to it. Utility does not imply mental states but desire satisfaction. According to Griffin, “the desires that are relevant on this account are not only people’s actual ones but also those they would have if they understood the nature of possible objects of desire, a person’s own conception of what is in his interest, therefore, is not definitive.” There is need for determining the conflict between actual and informed desires, Griffin argues, though it may seem difficult but is possible. “But the preference account of utility need not be wedded to any narrow Heumean account of the opposition of reason and desire, it need not accept a Heumean account of action or of the ground of moral obligation.” p. 147. Griffin argues, one can’t maximise any desire if they are at one level. But rather than giving importance to strength of desires at the level of psychological intensity, desires should be assessed at the informed preference level. Griffin maintains: “utility” is not to be seen as the single overarching value, in fact, not as a substantive value at all, but instead as a formal analysis of what it is for something to be prudentially valuable. Therefore, utility will be related to substantive values, such as autonomy or liberty, not by being the dominant value that subsumes them, but by being an analysis of, and the related suggestion of a metric for, any prudential value. It should be seen as providing a way of understanding the notions ‘(prudentially) valuable’ and hence ‘more valuable’ and ‘less valuable’. Utility, therefore, is not what it is about objects that makes them desirable. What makes us desire the things we desire is something about them – their features or qualities. Making ‘utility’, in this way, a formal notion may seem to make it otiose. Why bother with informed desires after all we can go directly to what it is about objects that shape the informed desires in the first place? But the notion of ‘utility’, although purely formal, is not otiose: it has clarity and scope that talk about particular substantive values, or desirability – characterizations, or reasons for actions lacks.” p.147.
seeing the world in its existential features. For this reason, utilitarians have been the pioneers in advocacy of global justice.

**Utilitarianism and Global Justice**

The close relationship between utilitarianism and global justice was emphasised by Charles Jones, who noted that “some of the most notable contributions to the global ethics debates have been utilitarian.” Hume, who asserted justice as artifice, emphasised its necessity for individual dealings. But on the law of nations, he opined that it was not stringent because of the utility calculation, as states can survive independently without needing help from each other. Still, according to Hume, “laws concerning the stability of possession, its transference by consent, and the performance of promises apply to nations as well as individuals as also do some other rules not applicable to individuals.” Here, Hume has a statist view of international relations, where states are presumed to be self-sustaining, independent societies. Even if they do not fulfil their obligations, they will not be adversely affected. Despite the limited utility of the law of nations, Hume argues that it should be obeyed. However, there is a duality in Hume’s arguments about the law of nations. Perhaps this duality is due to the simultaneous statements about *is* and *ought*. The laws of nations *ought* to be obeyed but due to utilitarian calculations *is not* obeyed. Emphasising this duality, Harrison notes that

we come to have a moral obligation, as well as a natural obligation, to obey the laws of nations because people, from sympathy with the pleasure of others, feel approval of what is useful or in men’s interests. This is the sense in which the moral obligation is founded upon, the natural obligation. There are, however, some difficulties in this contention, which Hume obscures. In the first place, Hume never makes it quite clear

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66 Harrison, n. 50, p. 229. This quotation is cited from Jonathan Harrisson’s précis of Hume’s work. However, Hume maintains that, “the law of nations are less stringent than those which govern the behaviour of private persons: this is explained by the fact that nations, unlike individuals can exists without such rules; the extent to which the laws of nations are less stringent than the rules which apply to individuals is discovered by experience of the world, which fact shows that all men know implicitly that the obligation to obey both kinds of convention depends upon their respective advantages.” p. 229.
whether he is saying that it is in men’s interests to have laws of nations, or whether he is saying that, given that we have them, it is in our interests to obey them. (It could be argued that any law we have must be mostly obeyed, for a rule which is not obeyed at all is not a rule). It is clear that it is in everyone’s interests that there should be laws of nations, and that they should, for the most part, be obeyed, but, given that they exist and are on the whole obeyed, it will not necessarily be in the interests of every individual nation always to obey them… The natural obligation, in this case, is a natural obligation to have such laws, not a natural obligation to obey them.  

This confusion about the import of Hume’s statements at times puts in doubt his being utilitarian. Hume’s emphasis on beneficial the effects of obedience and non-obedience to laws gives his thinking a realist conservative connotation, thereby raising doubts about his claims to be an utilitarian. For instance Anthony Ellis doubts the utilitarian claims of Hume. According to Ellis, utilitarianism is normative, but no such thinking is reflected in Hume’s philosophy. Hume’s attempts to locate morality in passions were a step in the description of morality rather than setting of a standard of right or wrong. People approve this morality for utility it seeks to promote instrumentally calculated. According to Ellis

Hume was not, however, strictly speaking a utilitarian. For one thing, as we have seen, his intentions were not normative. And when he speaks of utility, he does not mean well-being, or anything of that sort; nor is there in Hume’s writings the idea that utility is to be maximized in the utilitarian’s sense. His claim was merely that we have come to approve of moral constraints because they have utility – they are useful because they serve the public good. What he means by utility and the public good is little more than the man in the street would mean by those phrases.

However, Hume’s contribution was notable for his emphasis on utility as the basis of government and property, rather than the natural law tradition. Ellis argues that the utilitarian tradition’s implications on world affairs is that it emphasises that the “ultimate locus of value is the individual, and the reason for this is simply that it is individuals, not communities, that can be happy or unhappy, have desires satisfied or unsatisfied, and so

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67 Ibid., p. 233. (emphasis in the original) Even though Hume asserts that there is a natural obligation to adhere to laws of the nations, but this obligation is not natural virtue. It does not have any sense of moral imperativeness. As Harrison says “we have a natural obligation to obey the laws of nations is simply a natural or non-moral fact about them.” p. 233

on. We may speak of a community as wanting something, but this, utilitarians believe, can always be translated into some set of statements about the individuals that compose the community." This individualism does not deny that communities are important, but only because of the individual value of the individuals that compose it. Further, the states or community do not have any metaphysical moral importance, but only instrumental value promoting the welfare of compatriots may conflict with duty to the world at large. Peter Singer points to the way forward out of this dilemma by using utilitarian principles, arguing that, "if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it. By ‘without sacrificing anything of comparable moral importance’ I mean without causing else comparably bad to happen, or doing something that is wrong in itself, or failing to promote some moral good, comparable in significance to the bad thing that we can prevent." Singer asserts for these principles far reaching implication, for they do not give credence to proximity or distance. Secondly, this principle does not depend on the "cases in which I am the only person who could possibly do anything and cases in which I am just one among millions in the same position." Singer asserts that in a "global village" it is unjustified to make moral distinctions according to geographical proximity.

Now the question arises, how much to give to the needy. Singer asserts the principle of marginal utility: one should give to others until it affects oneself. Singer

69 Ibid., pp. 172-3. Ellis argues that states are like clubs, firms, or sports team. Their goal is directed towards "protection of the individual and his or her community. But their pursuing this parochial end is justifiable only because it is their most efficient way of maximizing the general-good the good of all sentient beings everywhere . . . It is equally a fact of life that states will have conflicting aims; and this would be inevitable even if they were all consciously committed to the same utilitarian ideal, for they would differ about how to realize it. However, as far as utilitarianism is concerned, states should be committed ultimately to the positive pursuit of common end, namely the general good, and their joint actions and legal conventions should reflect this. This puts states in an uncomfortable position since they are pulled in two directions. On the one hand, they have a derivative duty to their own citizens; on the other hand, their fundamental duty is to the world at large. And, as the problem of world hunger may show, there may be circumstances in which promoting the good of their own citizens is not compatible with pursuing the more general good." p. 173. Ellis further discusses morality of war with utilitarian approach.

70 Peter Singer, "Famine, Affluence, and Morality", in Charles R. Beitz et al. eds., International Ethics (Princeton, New Jersey, 1985) Singer's article originally appeared in 1972, in response to November 1971 East Bengal refugee crisis, were there was a dearth of food, medical care and shelter. Singer compares the money spent on items of affluence with aid earmarked for the refugees. He begins with "the assumption that suffering and death from lack of food, shelter, and medical care are bad. Explicating his argument he cites the case, where, "if I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull the child out. This means getting my clothes muddy, but this is insignificant, while the death of the child would presumably be a very bad thing." p. 249 Similarly, Singer argues that by sacrificing some of our affluence (which are hardly of any moral importance) we should help people in dire need.
points to the Malthusian objection, arguing that “until there is effective population control, relieving famine merely postpones starvation.” Singer accepts the conclusion that indefinite population growth needs to be checked, but without drawing the conclusion therefore that would involve not helping famine victims. Further, Singer asserts that there can be two principles for contributing to prevent bad occurrences. One is of strong version, enjoining giving until marginal utility. But Singer argues

... I can see no good reason for holding the moderate version of the principle rather than the strong version. Even if we accepted the principle only in its moderate form, however, it should be clear that we would have to give away enough to ensure the consumer society, dependent as it is on people spending on trivia rather than giving to famine relief, would slow down and perhaps disappear entirely. There are several reasons why this would be desirable in itself. The value and necessity of economic growth are now being questioned not only by conservatives, but by economists as well. There is no doubt, too, that the consumer society has had a distorting effect on the goals and purposes to its members.71

Thus, utilitarianism as a moral theory has produced a majority of advocates on global justice. This version of global justice is prone to the same attacks that the moral philosophy of utilitarianism has been susceptible to. As Onora O'Neill points out, utilitarianism has two major defects. Its principle of welfare leads at times to divergent conclusions. This is due to its consequentialist features, which focus on aggregative well-being, where only consequences count. Even if the means are not justified neo-Malthusian arguments against benefiting the poor and destitute can be said to be following consequentialist features, when they argue that helping the poor now may lead to rapid unsustainable population growth and hence famine later.72 Hence, the situation may be of help now, famine later. It will be better to prevent future misery by not helping

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71 Ibid., p. 259.
72 Garrett Hardin, “The ethic of a lifeboat”, Bioscience, 24, October 1974. Hardin develops a “lifeboat ethics”, which asserts the limits of planet earth. He is particularly concerned over burgeoning population especially the poor. Since, the earth is commons, poor will continue to have high birth rate. Hardin forbids provision for poor, aka Malthus, arguing that “we cannot safely divide the wealth equitably among all present peoples, so long as people reproduce at different rates, because to do so would guarantee that our grand children – everyone’s grand children would only have a ruined world to inhabit.” p. 18. Hence if provisions are made for poor, they will continue to multiply, and endanger the food situation further. In his “life boat” there is no place for poor since the earth’s capacity are limited. They are condemned to be sacrificed for the sake of humanity. Hardin says there is no scope for conscience, since a rich man in the boat can help the poor by giving his place. But the situation will be of where “conscience eliminates itself, leaving the ethics of a lifeboat unchanged.” p. 4.
now. But this focus on population growth, ignores the high consumption level of the developed, who are using a disproportionate share of resources. According to O’Neill,

The plasticity which produces these radical disagreements is the first major defect of consequentialism. Consequentialism raises hopes with the prospect of replacing conflicts by calculation, but dashes them by providing overly pliant instruments of calculation. Consequentialist reasoning about actual problems is impressionistic rather than scientific. This defect is internal to consequentialism. The second major defect is external. Consequentialism cannot capture matters that non-consequentialists think peculiar and distinctive about justice. Two aspects of this are particularly significant. First, in taking the production of benefit as the criterion for right action it permits some lives to be used and used up in order to produce benefit (happiness or well-being) in other lives. Secondly, when consequentialists use a subjective account of the good as the measure of benefit, they treat all preferences as on a par meeting urgent needs may have to take second place to filling strong preferences. The latter is not trivial in the context of global distributive justice, because extreme deprivation can blunt rather than sharpen preferences.\(^7^3\)

Charles Jones accepts the “impartial, non-perspectival, individualist, and egalitarian” doctrine of utilitarianism. But he still criticises utilitarianism, and favours a basic rights approach. He criticises, utilitarianism for the oft cited criticism of being demanding and permissive. Utilitarianism can demand the foregoing of more fulfilling relationships under the pretext of maximizing utility. Also, it can permit, as Rawls has pointed out, sacrifice of some to benefit greater utility. At the global level, the demanding criticism is argued against by Singer, who advocates that one should sacrifice till one reaches “anything of comparable moral importance”. Jones, responding to the over demandingness objections makes it clear that the theory fixes on basic needs satisfaction. Further, cooperativeness through public institutions addresses the objection of over demandingness.\(^7^4\) Jones responding to the criticism of permissiveness, advocates better redefinition of utilitarianism.

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\(^7^4\) Charles Jones notes that, “the sacrifices required by utilitarianism are not excessive, at least not when three points are made clear. First, the theory focuses on basic want satisfaction. This diminishes the number of interests that require protection: it must be less demanding to satisfy a set of basic desires than it is to satisfy all the desires (or rational desires) of individuals, since the former is a subset of the latter. Secondly, the theory requires cooperative action as a necessary condition of the fulfillment of the duties of individuals. This rules out the possibility of large-scale avoidance of actions required by the criterion: public enforcement of duties to cooperate in schemes aimed at meeting the demand to protect basic
Utilitarianism, as a moral theory, due to its existential features is more prone to facilitate (at least theoretically) global justice. But its advocacy of justice, thereby global, is not entirely problem free. In addition to the usual criticism levelled against it for denying the moral separateness of persons, utilitarianism is also limited and parochial by defining all human experiences under two categories, pleasure and pain, which is clearly reductionist. Further, what if a person is suffering from Alzheimer’s disease, and is not capable of responding to pleasure or pain? Derek Parfit argues that even moral experiences are discrete experiences, thereby reducing morality to human experience, even if of high moral pleasure. The discussion of global justice in utilitarianism possesses the lacunae that it focuses on the desirability of justice through the moral category only, although the defence can be made that utilitarianism is avowedly a moral theory. However, its discussion of issues of global justice has elements wherein the conclusion has already been reached, and premises are being fitted. Despite his statement to the contrary, arguing in favour of the “global village”, Singer lacks a sociological account of the global village. Though Singer regards nation state boundaries as not of much moral importance, he does not adequately locate this in the practical world, leading to the consequent criticism of ignoring special relationship. Attempts to

interests makes it less likely that solitary individuals will have to shoulder the burden of self-sacrifice because others fail to contribute their share. Thirdly, the theory is concerned with public institutions. This limits the agents to whom the requirements of the utilitarian criterion directly apply: when asking about excessive sacrifice, we then look at the capacity of a set of institutions to achieve a given set of results.” (emphasis in the original), Jones, n. 65, p. 39.

Derek Parfit, *Reason and Persons* (Oxford, 1984). Parfit is utilitarian, argues that our identity is indeterminate. Arguing that “we cannot explain the unity of a person’s life by claiming that the experiences in this life are all had by this person. We can explain this unity only by describing the various relations that hold between these different experiences, and their relations to a particular brain. We could therefore describe a person’s life in an impersonal way, which does not claim that this person exists.” p. 445.

As Bernard Williams discussing utilitarianism asserts that conjuring of justice by the utilitarians is “a tribute to the decency and imagination of those utilitarians but not to their consistency or their utilitarianism but not to their consistency or their utilitarianism.” Bernard Williams, *Morality: An Introduction to Ethics* (New York, 1972), p. 103.

Peter Singer points to differences in response to the victims of the terrorist attacks of September, 2001 and provisions for the world poor. Singer emphasises “the distance between these amounts symbolizes the way in which, for many people, the circle of concern for others stops at the boundaries of their own nations- if it even extends that far. “Charity begins at home”, people say, and more explicitly, “should take care of poverty in our own country before we tackle poverty abroad”. They take it for granted that national boundaries carry moral weight, and that it is worse to leave one of our fellow citizens in need than to leave someone from another country in that state.” p.152. Singer asserts for “a global ethic should not stop at, or give great significance to, national boundaries. National sovereignty has no intrinsic moral weight.” p.148 (emphasis in the original.). Peter Singer, *One World: the ethics of globalization* (New Haven, London, 2002).
derive global justice from epistemic categories (moral theories are the most epistemic of them all), reduces the issues of obligation to be discussed among impractical philosophers, rather than implemented. The exclusion implicit in moral theories is due to their very epistemic nature which is a product of Cartesian cogito rationality, where mental categories (or thinking, where moral theories as abstract cogitation) are the only source of obligation. Abstractness is the premium of moral theories, the more abstract they are the more profound they become. The attempt to construct a universal timeless moral theory is that it will be of a bare minimum, which holds equally in the times of Plato and Rawls. Changes in human circumstances do not promote change in moral theories. Hence, epistemic theories viz., liberal in its both variants utilitarian and contractarian, and communitarian, necessarily incorporate exclusion, although it is necessary to assert that utilitarianism, being less epistemic is more amenable to universalisation. Now we turn to the other liberal theory of justice, viz., contractarian.

**Liberal Theory of Justice: Contractarian**

John Rawls's is the representative work on contractarian theory of justice. Rawls magnum opus came out at a time when Anglo-American normative political theory was facing a lack of substantive work. Already in the 1950s, opinions had been raised on the decline and death of political theory. The timing of the publication was especially significant for it came out in the wake of the civil rights movement, assertion for Black rights and the anti-Vietnam war protests. Rawls's book had profound and far reaching implications in the political and social world, where it was seen as a re-assertion of liberalism, as just and fair.

Rawls aimed to project a state of affairs entailing social justice. His political philosophy invoked the contractarian traditions of Hobbes, Locke, Rousseau and Kant, which had for long been in disuse. Rawls defines society as “a cooperative venture for mutual advantage”. The implications of this definition are profound and especially noteworthy, which will be taken up later. Rawls conceived society as more or less self-

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sufficient, guided by certain laws. This society has both agreements and conflict of interests or "circumstances of justice". Agreement is needed in the reaping of benefits of mutual cooperation and resolving conflict over distribution of resources. Justice is needed precisely for "the proper distribution of the benefits and burdens of social cooperation." The characteristic feature of Rawlsian theory of justice is that it invokes contract to derive a principal feature of justice. Traditionally, social contract was used to explain and justify political obligation. Hobbes, Locke and Rousseau intended to deduce political by "imagining" a state of nature suffering from disorder. To obviate the strife and disorder, inhabitants entered into a social contract to set up a political authority and delineate its key features.

Rawls developed his conception of justice as against the utilitarians. Rawls castigated utilitarianism for violating the inviolable separateness of persons. Contract emphasises and ensures moral equality of persons. Rawlsian theory of justice is product of agreement in "original position". Original position is an analytic device contrived by Rawls, which corresponds to the state of nature in the traditional social contract literature. The individuals in the original position are rational, i.e. able to understand what means will best fulfill their ends. The individuals are self-interested, i.e., their sole aim is to pursue their interests without being envious of others' achievements; Rawls terms this situation as "mutual disinterest". Justice is needed to solve problems over conflict of interests. Contractors agree over key features of justice behind the "veil of ignorance". Veil of ignorance was the key arch in Rawls theory of justice. The veil of ignorance censures that

No one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. For given the circumstances of the original position, the symmetry of everyone's relations to each other, this initial situation is fair between individuals as
moral persons, that is, a rational being with their own ends and capable, I shall assume, of a sense of justice.\textsuperscript{79}

Rawls wants contractors to be ignorant of such features which may result in differentiation between contractors. The veil of ignorance precludes them from manipulating principles of justice in their own favour. It makes people consider the good of each and every individual as their own good. Under the veil of ignorance, contractors are not only unaware of their particular characteristics but also their "conception of the good". The motive of contractors is distribution of "social primary goods" is "things that every rational man is presumed to want", since "they normally have a use whatever a person's rational plan of life." Some of the social primary goods are "rights, liberties, powers and opportunities, income and wealth." The contractors arrive at "two principles of justice". These are

\textbf{First Principle}

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

\textbf{Second Principle}

Social and economic inequalities are to be arranged so that they are both

(a) to the greatest benefit of the least disadvantaged and

(b) attached to office and position open to all under conditions of fair equality of opportunity.

These principles have lexical priority that is the first principle precedes the second. The basic liberties are "political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law."\textsuperscript{80} However, owing to the criticism of the first principle, which gave the impression that different basic liberties can be aggregated, Rawls later changed first principles to: Each person has an equal right to a fully adequate scheme of basic liberties which is compatible with a similar scheme of liberties for all.\textsuperscript{81} Rawls's justice has

\textsuperscript{79}Rawls, n. 1, p. 12.
\textsuperscript{80}Ibid., p. 61.
\textsuperscript{81}John Rawls, \textit{Political Liberalism} (New York, 1993), p. 5. Rawlsian system of justice was criticised on the ground that its basic liberties were confined to the materially prosperous society. Since a starving
certain prominent features. His justice argues that a “social minimum” should be
guaranteed to the distressed people. Income inequalities can be justified only if they
maximise the wealth of the poorest class. Rawlsian justice dismisses descent, since, “the
superior character that enables (someone) to make the effort to cultivate his abilities...
depends in large part upon fortunate family and social circumstances for which he can
claim no credit.”

Till now we have discussed the abridged main characteristics of Rawlsian theory
of justice which has been criticised on various grounds. The main agenda in our appraisal
of his theory of justice is to show its epistemic biasness, which implicates justice inside,
indifference or injustice outside. One of the defining features of the Rawlsian theory of
justice has been contract. Kant was the first to use contract to arrive at a notion of justice
in The Metaphysical Elements of Justice. The Kantian social contract was meant to be an
“idea of reason” through which just legislation could be determined. According to Kant,
“this is the test of the rightfulness of every public law.” Later, Kant proposed the “idea”
of the “original contract” to test the justness of laws. The key aim of using contractarian
language by Kant and Rawls is not only to ensure consent of people, but, more
importantly to emphasise the “distinction of persons”. Kantian categorical imperative of
man as an end, never as a means, is incorporated in contract. As Rawls noted, “In a
contract theory all arguments, strictly speaking are to be made in terms of what it would
be rational to choose in the original position.” Rawlsian recourse to contract has been
criticised for its hypothetical status and hence for being historically absurd. The major
idea governing contract is to assert moral equality of persons. Hence, contract is a key
arch of the Rawlsian edifice. But recourse to contract not only reinforces the moral
equality of persons, it is also an evident bias towards capitalist ideology. Basing justice

82 Rawls, n. 1, p.104., Though Rawls accepts in a “just system of cooperation” it is understandable that more
capable will be rewarded of their entitlements. However, development of natural talents or assets depends
upon a fair system of cooperation. Since, “no one deserves his place in the distribution of native
endowments, any more than one deserve’s one’s initial starting place in society.” p.104.
83 Immanuel Kant, “On the Common Saying: This May be True in Theory, but it doesn’t apply in practice”,
84 Rawls, n.1, p. 75.
on contract implies that justice arises from contract only. There are no obligations towards people outside of the contracting parties. It was no accident that the pioneer contractarian Hobbes, was a realist in international relations. Contract is an epistemic basis for agreeing on the principles of justice. Thus, the original indigenous inhabitants of United States were sequestrated of their possessions with impunity. Contract is as epistemic as the Greek concept of state or justice. Since slaves couldn’t be seen to contributing to the epistemic conception of state, their contribution could easily be relegated to secondary importance. Similarly, women who are tied up in domesticity can’t be a part of contract, and therefore are condemned to secondary status. The epistemic basis of contract and its resultant exclusion can be appraised from the fact that the entire slavery system existed on contract. Entering into a contract one slave owner could sell a slave to another. The non-epistemic contribution of women, slaves and third-world countries continue to make life possible, but they are outside the moral limits of justice. This so because marginalised groups can’t be part of reified episteme, at best they can only be conditional addenda, giving meaning to a homogeneous episteme.

Thomas Scanlon supports contractualism, but without the veil of ignorance as a “moral proof procedure”. Scanlon questions the desirability of the veil of ignorance as a means of moral equality. According to him, this encourages the conception where other’s good is seen through the lens of our own good. Instead, the “choice situation” intrinsic to contractualism makes “naturally disinterested” individuals appraise each others situation and believe in coming to commonly agreed principles. A contractualist deciphers moral wrongness or rightness of an action though the procedure as “an act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement.”

According to Scanlon, the emphasis on “informed agreement” is to obviate any agreement based on false beliefs or superstition. The emphasis on “unforced general agreement” is made so as to preclude any coercive bargaining; hence, the dictum “which

no one could reasonably reject." Scanlon takes recourse to this rejection principle to justify Peter Singer's saving of a drowning child, which Singer defended on utilitarian reasoning. However, discussing the principle of non-rejectability, Scanlon accept the cultural relativism inherent in it. Scanlon remarks

It seems likely that many non-equivalent sets of principles will pass the test of non-rejectability. This is suggested, for example, by the fact that there are many different ways of defining important duties, no one of which is more or less 'rejectable' than the others. There are for example, many different systems of agreement-making and many different ways of assigning responsibility to care for others. It does not follow, however, that any action allowed by at least one of these sets of principles cannot be morally wrong according to contractualism. It is important for us to have *some* duty of a given kind (some duty of fidelity to agreements, or some duty of mutual aid) of which there are many morally acceptable forms, then one of these forms is conventionally established, acts disallowed by it will be wrong in the sense of definition given. For, given the need for such conventions, one thing that could not be generally agreed to would be a set of principles allowing one to disregard conventionally established (and morally acceptable) definitions of important duties. This dependence on convention introduces a degree of cultural relativism into contractualist morality. In addition, what a person can reasonably reject will depend on the aims and conditions that are important in his life, and these will also depend on the society in which he lives. The definition given above allows for variation of both of these kinds by making the wrongness of an action depend on the circumstances in which it is performed.  

This scope for cultural relativism will lead to the erection of boundaries in consonance with nation-states. Any abstract epistemic thought purportedly appears as impartial and universal, but lapses back into cultural boundaries which are taken to mean to end on nation-state boundaries. Scanlon grapples with the issue of moral boundary. He remarks that "the scope of morality is a difficult question of substantive morality, but a philosophical theory of the nature of morality should provide some basis for answering it". The bases are three, viz., (i) "the first is that the being have a good, that is, that

86 Ibid., p.112. (emphasis in the original)
87 Ibid., p. 113. Scanlon asserts, "what an adequate theory should to be relevant arguments for and against particular interpretations of the moral boundary can be carried out. It is often thought that contractualism can provide no plausible basis for an answer to this question. Critics charge either that contractualism provides no answer at all, because it must begin with some set of contracting parties taken as given, or that contractualism suggest an answer which is obviously too restrictive, since a contract requires parties who are able to make and keep agreements and who are each able to offer the other benefit in return for their cooperation. Neither of these objections applies to the version of contractualism that I am defending. The
there be a clear sense in which things can be said to go better or worse for that being”, (ii) “Thus, in order for a being to stand in moral relations with us it is not enough that it have a good, it is also necessary that its good be sufficiently similar to our own to provide a basis for some system of comparability”; (iii) “One further minimum requirement for this notion is that the being constitute a point of view, that is, that there be such a thing as what it is like to be that being, such a thing as what the world seems like to it. Without this, we do not stand in a relation to the being that makes even hypothetical justification to it appropriate.”

The above necessary condition, according to Scanlon himself, “does not settle these issues at once.” The conditions of a good, and its comparability, will lead to nothing but moral boundaries being restricted to nation-states. Further, good is prone to be identified in terms of epistemic cultural features specific to the nation state, hence obviating the need it to be universal. Also, stress on “good” being “sufficiently similar to our” will necessarily result in coalescing of moral boundaries with nation-state. Scanlon’s bias towards domestic justice is evident from his assertion that it is unreasonable to believe that those outside the contract are not outside protection of morality. However, being outside the framework of contract does not mean that they are outside the moral imperatives of justification. But this creation of moral boundaries or framework is and will, reduce justice into a lot more pale charity to constituents of non-contractors. It’s not

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general specification of the scope of morality which it implies to me to be this: morality applies to a being if the notion of justification to a being of that kind makes sense.”p.113.

88 Ibid., pp. 113,114. (emphasis in the original) As Scanlon notes, that, “it is not clear that the three conditions I have listed as necessary are also sufficient for the idea of justification to a being to make sense. Whether they are, and, if they are not, what more may be required, are difficult and disputed questions. Some would restrict the moral sphere to those to whom justifications could in principle be communicated, or to those who can actually agree to something, or to those who have the capacity to understand moral argument. Contractualism as I have stated it does not settle these issues at once. All I claim is that it provides a basis for argument about them which is at least as plausible as that offered by rival accounts of the nature of morality. These proposed restrictions on the scope of morality are naturally understood as debatable claims about the conditions under which the relevant notion of justification makes sense, and the arguments commonly offered for and against them can also be plausibly understood on this basis. Some other possible restrictions on the scope of morality are more evidently rejectable. Morality might be restricted to those who have the capacity to observe its constraints, or to those who are able to confer some reciprocal benefit on other participants. But it is extremely implausible to suppose that beings excluded by these requirements fall entirely outside the protection of morality. Contractualism as I have formulated it can explain why this is so: the absence of these capacities alone does nothing to undermine the possibility of justification to a being. What it may do in some cases, however, is to alter the justifications which are relevant. I suggest that whatever importance the capacities for deliberative control and reciprocal benefit may have is as factors altering the duties which beings have and the duties others have towards them, not as conditions whose absence suspends the moral framework together.” pp. 114-5.
insignificant that Scanlon’s position on global inequality is ambivalent. Hence, it won’t be an exaggeration to state that justice arising from contract incorporates justice ending at contract. Although Scanlon does root for moral framework and need for justification outside contract, but it doesn’t have the same authority and implication as a contract is purported to be.

Michael J. Sandel, analysing the morality of contract, argues that it claims to be based on two factors viz., ideal of autonomy and ideal of reciprocity. But according to Sandel

even voluntary agreements are likely to fall short of the ideal of autonomy, in which the obligations incurred are self-imposed in the strict sense of ‘self’ defined as prior to its attributes and ends and thus free from heteronomous determinations. Only it permits, rule out arbitrary influences completely. Ruling out coercion alone cannot justify a contract any more than ruling out, say, class privilege alone can justify a meritocracy. In both cases, too much is left subject to contingencies arbitrary from a moral point of view. Once we are bothered by the most conspicuous obstacles to individual autonomy, we are bound on reflection to reject heteronomous influences wherever they appear.\textsuperscript{89}

On the second ideal, Sandel asserts that to judge any contract as ensuring reciprocal benefit, one must have a “criterion of fairness independent of control”. This criterion acts as a standard in judging the fairness of any obligation. Without this, “such obligations are thus not contractual in the strict sense that the contract creates the obligation, but rather in the limited epistemic or heuristic sense that the contract helps to identify or clarify an obligation that is already there.”\textsuperscript{90}

Thus, the contract theory of justice is vulnerable to lapse into cultural relativism. As Thomas Nagel argues, the conception of the original position has liberal and individualist biases, which “have the effect of discounting the claims of conceptions of the good that depend heavily on the relation between one’s own position and that of others.”\textsuperscript{91}

\textsuperscript{90} Ibid, p. 108.
\textsuperscript{91} Thomas Nagel, “Rawls on Justice”, Norman Daniels, ed., \textit{Reading Rawls: Critical Studies on Rawls A Theory of Justice} (Oxford, 1975). Nagel further, questions Rawls, emphasis on deprivation of knowledge of particular good, to be pursued by contractors. Nagel maintains, “Rawls minimal conception of the good does not amount to a weak assumption: it depends on a strong assumption of the sufficiency of that reduced
Fisk also criticises the Rawlsian contract for its ideological bias towards liberal capitalism. The Rawlsian conception of society therefore needs to be looked at. Rawls remarks

a society is more or less sufficient association of persons who in their relations to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them. Suppose further that these rules specify a system of cooperation designed to advance the good of those taking part in it. Then, although a society is a cooperative venture for mutual advantage, it is typically marked by a conflict as well as by an identity of interests.

Here the Rawlsian conception of society presents a fairly open characterisation. This openness in society has led some scholars to extend this to a global original position, since international interdependence can also be brought under the conception of “a cooperative venture for mutual advantage”. But Rawls’s bias towards national justice is obvious: at times, Rawls replaces the term society with community. It is unlikely that a philosopher of the stature of Rawls is careless in choosing terms or is oblivious of the commonly held distinctions between society and community. As Rawls asks, “but the question remains whether the contract doctrine is a satisfactory framework for understanding the values of community and for choosing among social arrangements to realize them. It is natural to conjecture that the congruence of the right and the good depends in large part upon whether a well-ordered society achieves the good of

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conception for the purposes of justice.” p.9. Also, “any hypothetical choice situation which requires agreement among the parties will have to impose strong restrictions on the grounds of choice, and these restrictions can be justified only in terms of the conception of the good. It is one of those cases in which there is no neutrality to be had, because neutrality needs as much justification as any other position.” p.9.

92 Milton Fisk, “History and Reason in Rawls Moral Theory”, Norman Daniels, ed., Reading Rawls Critical Studies on Rawls A Theory of Justice (Oxford, 1975). Fisk criticizes Rawlsian contract from Marxist perspective. He argues abstracting men from their real condition, helps to cover up their location in prevailing class composition/ This gives advantage to the dominant classes. Further, original position conveys the belief that it is a neutral arbiter in clash of interests. Which it is not, but an instrument in class oppression. Fisk, argues, “contract theory supposes that the task of arriving at moral principles is one of reason. By a rational idealization one constructs a concept of human nature and by a process of rational reflection one confirms the validity of this concept. The situation is not fundamentally altered if contract theory is relativized to classes. By a process of rational idealization one constructs a concept of human nature from what seems the obvious truth about the class. And similarly, by a process of rational reflection, it can be determined whether this concept is in fact what one would expect, given the role people in the class play. Moral principles arrived at on the basis of such rationally constructed and justified concepts of human nature will be distorted in the way these concepts are themselves distorted. But why are the concepts distorted? Reason, as employed in the tasks of constructing and justifying these concepts, in analytic reason and hence it merely refines and abstracts from something it identifies as a consensus”. pp. 78-9.

93 Rawls, n.1, p.4.
community”.

Further, Rawls explicates his concept of “social union” in contrast to private society. Rawls argues that a private society can be composed of men satisfying their wants (which are termed as trivial). Relations in a “private society” can be of purely instrumental character. This idea of Rawls is surprising, since his conception of rationality is instrumental. Further, Rawls asserted, “The social nature of mankind is best seen by contrast with conception of private society. Thus human beings have in fact shared final ends and they value their common institutions and activities as good in themselves.” Rawls argued that, “this community may also be imagined to extend over time, and therefore in the history of a society the joint contributions of successive generations can be similarly conceived.” This extending of imagination of community to history very striking resembles with later Benedict Anderson’s later formulation of “nations as imagined communities”.

Rawls, in responding to his communitarian critics, revises his Theory of Justice, which had more obvious limited conceptions of society. This society overlaps with national boundaries, and differences between Rawls and the communitarians is reduced over their divergent conceptions of society. To preclude international cooperation coming into the definition of society, he now defines “cooperation (is) distinct from merely socially coordinated activity.” Concomitant with this was the concept of person, who

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94 Ibid., p. 520.
95 Ibid., p. 522. The communitarian or rather national boundaries of justice are assumed in Rawls theory. The sociological factors which bring people together to form a union are termed as trivial by Rawls. This is evident of epistemic bias in Rawls. As Rawls maintained, “it is contended that the contract doctrine entails that private society is the ideal, at least when the division of advantages satisfies a suitable standard of reciprocity. But this is not so, as the notion of a well-ordered society shows. And as I have just said, the idea of original position has another explanation. The account of goodness as rationality and the social nature of mankind also requires a different view. Now the sociability of Human beings must not be understood in a trivial fashion. It does not imply merely that society is necessary for human life, or that by living in a community men acquire needs and interests that prompt them to work together for mutual advantage in certain specific ways allowed for and encouraged by their institutions. Nor is it expressed by the truism that social life is a condition for our developing the ability to speak and think, and to take part in common activities of society and culture. No doubt even the concepts that we use to describe our plans and situation, and even to give voice to our personal wants and purposes, often presuppose a social setting as well as a system of belief and thought that are the outcome of the collective efforts of a long tradition. These facts are certainly not trivial; but to use them to characterize our ties to one another is to give a trivial interpretation of human sociability. For all of these things are equally true of persons who view their relations purely instrumentally.” p.522.
96 Ibid., p. 523.
98 Rawls, n. 81, p.16, A number of citations of the revised Rawlsian position in Political Liberalism is in order. “Society is to the conceived as a fair system of cooperation over time between generations, we adopt
have “a capacity for a conception of the good... In addition to having these two moral powers, persons also have at any given time a determinate conception of the good that they try to achieve. Such a conception must not be understood narrowly but rather as including a conception of what is valuable in human life.”

Although the Rawlsian conception of good does include mundane matters he especially forbids it to be construed narrowly. Rather, he asserts for its normative conception, hence, including epistemic exclusion. This emphasis on good seen in “final end” terms implies, defining good in epistemic categories, which will restrict obligations and justice to the national boundaries. Utilitarian goods were conceived in more existential terms, hence, their propensity to arrive at a global justice. The lapsing of abstract conceptions into the very cultural relativism which it aims to transcend is inherent. This stress on “final ends” gives it metaphysical character.

Rawls’s, “Kantian constructivism” has the same untheorised and unacknowledged relativism and transcendent moral ideals. This is precisely due to its epistemic features, where under the veil of ignorance it ignores interlinkages among people, societies and countries. Hence, at best Rawlsian justice can provide a principle for domestic justice. Further, abstraction or idealisation is outright epistemic, which has the shaky support of reason, which ultimately lapses into practical reason. This practical reason of the Kantian variety is perfectly consistent with prevailing identity. As Onoro O’neill maintains

the veil of ignorance described in A Theory of Justice was tailored to hide the interlocking structures of desires and attitudes that is typical of human

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99 Ibid, p. 19. Rawls further maintains, thus, a conception of the good normally consists of a more or less determinate scheme of final ends, that is, ends we want to realize for their own sake, as well as attachments to other persons and loyalties to various groups and associations. These attachments and loyalties gave rise to devotions and affections, and so the flourishing of the persons and associations who are the objects of these sentiments in also part of our conception of the good. We also connect with such a conception a view of our relation to the world-religious, philosophical, and moral-by reference to which the value and significance of our ends and attachments are understood. Finally, person’s conceptions of the good are not fixed but form and develop as they mature, and may change more or less radically over the course of life.” pp 19-20.

100 See article, “Kantian Constructivism in Moral Theory” in Samuel Freeman, ed., John Rawls: Collected Papers (New Delhi, 1999). It was revised and included in Political Liberalism entitled “political constructivism”. He distances himself from Kantian constructivism.
agents. Once the social relations between agents were masked it could seem plausible to assign each desires for a uniform shortlist of primary goods, and to build a determinate ideal of mutual independence into a conception of justice. This ideal is not met by any human agents. It is not only deficient and backward human agents whose choosing would be misrepresented by these ideal agents of construction. The construction assumes a mutual independence of persons and their desires that is false of all human beings. Such independence is as much an idealization of human social relations as an assumption of generalized altruism would be.\(^{101}\)

As O’neill maintains, “idealized accounts of justice tend to ignore actual vulnerabilities, and relativized accounts tend to legitimate them”.\(^{102}\) Epistemic conceptions are doomed inevitably to culturally relative factors. As Kant asserted the limitations of reason, it is inevitable that the gap will be filled by metaphysical hypotheses, or, as in the case of political constructivism, national boundaries. As O’neill further asserts, “Rawlsian constructivism has ended up on an uncomfortable knife edge, and teeters between idealizing and relativized conceptions of ethics.”\(^{103}\) The Kantian categorical imperative of universality fails to specify the scope of universal laws.\(^{104}\) The Kantian categorical imperative is perfectly compatible with the scope of justice ending at the domestic boundaries of all the states, although some scholars have tried to extend the Rawlsian original position to the international level to deduce principles of global justice.

**Contractarianism and Global Justice**

Contractarianism in comparison to other ethical traditions has been, relatively less prevalent in international relations. Earlier ethical traditions in international relations have been more oriented towards natural law. In between, utilitarian and Marxist traditions gained salience. But with advent of Rawls, contractarianism has become quite

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\(^{102}\) Ibid., p.217.

\(^{103}\) Ibid., p.218.

\(^{104}\) Also, “Korsgaard notes that the Kantian approach leave it unclear what the scope of universal law must be, and makes the partly unKantian suggestion that this must be settled by considering an agent’s practical identity. Practical identities are those under we act: as a member of a family, or of a community, as a citizen, or as a Member of the Kingdom of Ends. Human beings cannot live without some practical sense of identity; and (if Korsgaard is right) they cannot now get far without conceiving themselves as Members of the Kingdom of Ends. In acting with the practical identity of a Member of the Kingdom of Ends the forms of normality can be vindicated will correspond in scope as well as inform to the moral obligations which have traditionally been seen as endorsed by Kantian reflection”. Onora O’neill’s comments on Korsgaard’s article. See Onora O’neill, ed., *The Source of Normativity* (Cambridge, 1986), p.xiv.
popular. According to David R. Mapel, "classical contractarians have been pessimistic about the possibility of international justice, whereas contemporary contractarians emphasize the possibility of international reciprocity and social cooperation." Mapel argues that classical contractarians are skeptical of reliable relations between states. That is, they are concerned with the relative gains problem. However, contemporary contractarianism is more open to predictable relations between states.

Many of the contractarian traditions have depressing "circumstances of justice" which are bound to effect the resultant contract. They are not as epistemic as was the Rawlsian contract with its veil of ignorance and original position. Therefore, the appraisal of other contractarians and what they have to say about the character of international relations is imperative. As Mapel himself maintains,

given this reliance on extra-contractarian moral assumptions, there are few, if any, "pure" contractarians. Few political thinkers simply presuppose a contractual situation without further justification. Rather, the contractarian tradition permits a range of more or less "moralized" descriptions of the initial contractual situation. Hobbes’s "state of nature" illustrated one extreme version, in which extra-contractarian moral constraints have minimal importance. Rawls’s theory illustrates the other extreme, in which the agreement of the contractors is all but dictated by the normative constraints built into Rawls’s initial situation or "original position." Hence, according to Mapel, "classical contractarianism has deep affinities with classical realism." Hobbes views resonate with traditional classical realist principles. Though Locke is a shade better than Hobbes, but his views are nevertheless similar to those of Hobbes. Rousseau had the most depressing view of the trio. He argued that domestic adversity after the setting up of states gets transferred to the international level, given the state’s power to forge violence. Rousseau argued that to follow international law and procedures, is only compatible with small societies, and can’t be replicated at the international level. Hence, there is no scope for justice at the international level.

\[105\] David R. Mapel, "The Contractarian Tradition and International Ethics", in Terry Nardin and David R. Mapel, eds. Traditions of International Ethics (Cambridge, 1992), p. 180. Mapel argues that despite diversity in their conclusions, contractarianism has a common structure, which unites it. He argues that US foreign policy, is indirectly influenced by contractarian tradition. Mapel argues that all contractarian theories have three essential features, (i) circumstances of justice (ii) moral constraints in pre-contract period and (iii) finally rational choice.

\[106\] Ibid., p. 183.
according to Steven Forde points out "the soul of justice within society according to Rousseau is the "general will". This is what the community as a whole wills for itself, and as such it is an infallible guide to justice, domestically. However, this will may be blind to any notion of justice in foreign affairs. For this reason, Rousseau says, even the most just state, following its own general will, might engage in an unjust war."  

Kant believed that republican governments do not fight one another. But this thought was characterised, by his characteristic dualism, where states were seen to be existing in a Hobbesian state of nature, but gradually through international commerce, a perpetual peace between them is possible. His position is ambivalent between world state and world federation. This belief in Kant is guided by his moral epistemology, which asserts that in international relations, states are to conceptualised as moral persons, under the injunction of categorical imperatives. Donaldson maintains, "the basis for international morality must remain for Kant what it is for domestic morality: the moral demand of reason. Morality justifies cooperation; not the reverse. While international cooperation may, as an empirical matter, make it more possible to create a league of nations, the reasons why we want a league or, for that matter, any form of international cooperation, derive from our a priori concepts of morality." Despite evident cosmopolitanism in Kantian "global rationalism" it does not have categorical injunctions in favour of global justice although scholars like Onora O'Neill, had reinterpreted Kant to deduce conclusions favouring help to the needy and poor of the world.

107 Steven Forde, "Classical Realism", in Terry Nardin and David R., Mapel, eds., Traditions of International Ethics (Cambridge, 1992), p. 78. Though Rousseau's view of human nature, differs from Hobbesian view of human as "nasty and brutish". As Forde, points out, "but he has at least as pessimistic view of the prospects of justice in the relations of states, once states are formed". p. 28. Rousseau maintained that mutual incompatibility of the "general wills" will be a threat to international peace. And since power of states is relative, they will be plagued with security dilemma. Hence the international peace will be slight.

108 Thomas Donaldson, "Kant's Global Rationalism", in Terry Nardin and David R. Mapel, eds., Traditions of International Ethics (Cambridge, 1992). Donaldson argues that Kant believed in the states right to self-defence. To obviate ill-effects of anarchy states come under some sort of authoritative source, such as an international organisation. But sovereignty of the states is to be maintained, and states have right to walk out of any arrangement. As Donaldson, argues, "Kant's confederation or "alliance" involves no sovereign authority and can be renounced by individual states at any time. In turn, it requires constant renewal Kant believed that a world government would be impossible to govern, owing to the vastness of the territories involved. For any individual state in the confederation of states, self-defense turns out, for Kant, to be the only justification for going to war, but the notion of self-defense is interpreted with sufficient liberality to include preemptive attacks under special circumstances." p.146
Recently, John Charvet aimed to build "international society from a contractarian perspective". His contract, in contrast to the Kantian contract, is a political one, which aims to devise laws and norms by contracting parties in an ideal position. But in this international society

States as moral entities are themselves based on an ideal agreement between their members through which they recognize each other's entitlements to determine for himself details of the social order. Thus an international federated society of states would commit itself to a mutual recognition of the liberal rights of one another's members. For each state would undertake to pursue its good together with the other states under authoritative norms, and the good of each state would itself be defined in contractarian terms as the good of its individual members pursued through authoritative norms that prescribe the acknowledgement of liberal individual rights. Such a society of states would permit the growth of an extensive international civil society with many and powerful transnational organizations. Nevertheless, on contractarian principles the moral states of such transnational organizations would be derived ultimately through the rights of their members as members of states participating in a just international society of states.\(^{109}\)

But the norms resulting from this contract do not constitute distributive justice. As Chris Brown noted, "Charvetian contractors do not produce principles of distributive justice".\(^{110}\) In fact, as Brown further maintains, "theorists like Kant who produced a contractarian theory of international society have generally done so on the basis that the contracting parties are states acting as collective persons, not individual human beings, and that the rules they establish do not include principles of distributive justice."\(^{111}\)

\(^{109}\) John Charvet, "International Society from a Contractarian Perspective", in David R. Mapel and Terry Nardin, eds., *International Society: Diverse Ethical Perspectives* (Princeton, N.J., 1998), p. 126. Charvet sees society as based on Humean and Rawlsian conception of mutual advantage. But this mutual advantage gives rise to "circumstances of justice. Charvet argues initially norms will be seen as coerced "authoritative allocation of values". But as society develops, reflective people will seek to establish norms in a more consensual product of human construction. Then the ideal of contract becomes especially relevant, where people abstract from prevailing unequal position to arrive at a contract, delineating international norm constituting international society.

\(^{110}\) Chris Brown, "Contractarian Thought and the Constitution of International Society", in David R. Mapel and Terry Nardin, eds., *International Society: Diverse Ethical Perspectives* (Princeton, N.J., 1998), p. 133. Also see, Chris Brown, *Sovereignty, Rights and Justice: International Political Theory Today* (Cambridge, 2002). Brown notes that "there may be a role for ideal theory in the sense that it establishes some kind of goal to aim at, but this needs to be combined with a more overtly political account of how the present system of international equality came into existence, whose interests it serves, and how, politically it can be adopted or changed to serve the interests of the poor and downtrodden." (p. 185) The idealistic theories according to Brown, have their value in, to show that there a particular feature of "realistic utopia" which need to be applied in practice.

\(^{111}\) Ibid., p. 138.
Contractarian traditions both at the international and domestic levels have this tendency to produce sparse ethical injunctions and obligations. This is most evident in the case of distributive justice. As we understand it this is precisely due to its epistemic "construction" which abstracts from the sociological interrelationship. Because of its very abstract nature, it tends to ignore basic human rights, needs and hunger. The precise lacunae with an abstract conception of justice are that it believes justice arises from deliberate contract. It ignores the sociological fact of an individual's location in a society of cooperative advantage, whose links over the time widens and broadens to interlink the whole globe. In a global consumerist society, goods from far off islands and places may be landing on the plate of an American conservative. But this American conservative may not feel any obligation towards the distant island, since by contract (market) he/she has bought and the other has sold. Justice ends at the contract. Echoing the same sentiment, Mapel notes

liberals who begin from a qualified skepticism about the possibility of political agreement tend to favour contractarian arguments because the contractarian tradition does not require individuals (or states) to agree to more than a "thin" or instrumental theory of goods. Liberals who begin from strong deontological views about rights or duties also often tend to favor contractarian arguments because the initial contractual situation can be easily set up to reflect those kinds of ethical constraints. In contractarianism the common good receives a rather bare and instrumental definition. Among contractarians, the idea of the common good may amount to no more than the absence of social war the creation of a common authority, the protection of basic rights, the equitable distribution of certain instrumental goods, or perhaps the possibility of "social union" or harmony between smaller associations. There is nothing in the contractarian tradition that correspond to the more robust notions of the common good found in other traditions such as natural law.\footnote{Mapel, n. 105, p.185.}

Charles Beitz is the most prominent theorist applying contractarian methods for understanding global justice. Though Rawls desisted from extending his theory to advocate global justice. Beitz argues that, "international relations is coming more and more to resemble domestic society in several respects relevant to the justification of principles of [domestic] social justice."\footnote{Charles Beitz, Political Theory and International Relations (Princeton, New Jersey; 1979), p. 128.} Hence, Beitz concluded that similar contractarian methods could be applied at the global level to favour distributive justice.
Beitz maintained, “a strong case can be made on contractarian grounds that persons of diverse citizenship have distributive obligations to one another analogous to those citizens of the same states.”

Beitz appraises the Rawlsian definition of society, which implied a “cooperative venture for mutual advantage”. Beitz asserts that justice can only apply in a society where there are goods to be distributed among warring claimants. But he argues that we can’t take literally the meaning of society “since all of the parties to a particular social scheme may not actually be advantaged in comparison with what his or her position would be in absence of that scheme.” In contrast to the Rawlsian conception of society in epistemic terms, which became more pronounced in his later book, Political Liberalism, where society was conceived to be concerned with final ends, Beitz gives a more sociological and existential analysis of the society. As Beitz, argued, ancient Greek polity can also be termed as society but slaves cannot be said to be benefiting. Beitz terms Rawlsian definition of society as “social ideal” or “an elliptical description”. Beitz’s main endeavour is to downplay the element of conscious cooperativeness in the conception of society, so as to show similarity of domestic and international society. Beitz questions the self-containedness of society. For, according to the Rawlsian definition, “the boundaries are given by the notion of a self-contained national community”, then there is no need for international justice. However, Rawls deduces laws of nations between states, which are similar to prevailing realist principles of international politics like self-determination, non-intervention and right to self-defence. Beitz argues if we accept international society as an open, interdependent world, then we will have to apply the same principles as of domestic society. Beitz asserts, “if the societies of the world are now to be conceived as open, fully interdependent systems, the world as a whole would fit the description of a social cooperation, and the arguments for the two principles would apply a fortiori at the global level. The principles of justice of international politics would be the two principles for domestic society writ large, and this would be a very radical result, given the tendency to equality of the difference principle.”

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114 Ibid.
115 Ibid., p. 131.
116 Ibid., p. 132.
Beitz bases his redistribution principle on the unequal distribution of natural resources. According to Beitz, it would be the basis of conflict among parties in the original position. Material progress of any society, according to Beitz, in based on two factors, one is “human cooperative activity itself” and the other is natural resources. Beitz refers to the Rawlsian idea on natural talent. Rawls remarked that distribution of natural talents is “arbitrary from a moral point of view”. Beitz says that we may or may not be sure about the “arbitrary” distribution of natural talents, but in we can definitely be sure that the distribution of natural resources is arbitrary. Unlike talents, which are part of our personality and identity, natural resources are not. In fact, it should also be added there could be a genuine debate about arbitrariness of natural talents. However, its reward either in monetary or recognition terms is always sociologically determined. Resources need to be appropriated. However, the availability of resources is scarce, and therefore susceptible to violation of the Lockean provision of leaving “enough and good” for others. Its appropriation may lead to conflict between nation-states, therefore the need for redistribution. Beitz notes that the “appropriation of valuable resources by some will leave others comparatively, and perhaps totally, disadvantaged. Those deprived without justification of scarce resources needed to sustain and enhance their lives might well press claims to equitable shares.”

Beitz argues that even if we assume that states are self-sufficient, still distribution of natural resources is arbitrary because “there is nothing in this reasoning to suggest that we can only have moral ties to those whom we share membership in a cooperative scheme.” Even Rawls agrees on this point when he says that “it is characteristic of natural duties that they apply to us without regard to our voluntary acts. Moreover, they have no necessary connection, with institutions or social practices: their content is not, in

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117 Attention must be drawn to the famous libertarian example of Wilt Chamberlain, discussed by Robert Nozick. Nozick differentiating between “end-state” or “patterned” justice. Wilt Chamberlain is an imaginary basketball player. Inhabitants of a particular city want Chamberlain to play for them. In order to induce chamberlain to play for their city, people want to pay extra money, to him. Since this city follows “patterned” or “end-state” conception of society. Extra money to the player will be proscribed by prevailing notion of justice. This Nozick sees as violation of individual liberty to use their own resources in the way they deem it fit. However, it is to be noted that the talent of an individual is rewarded differently. Though talent may be owed individually it’s reward is determined by contingent historical situations. Hence, the need for society to be conceived more broadly. The libertarian argument of “self-ownership” can’t be sustained. Robert Nozick, *Anarchy, State and Utopia* (Oxford, 1974).

118 Beitz, n. 113, p. 139.

119 Ibid., p.141.
general, defined by the rates of the arrangements". However, in a global consumerist society, ties exist at the global level, hence moral ties envelops the whole globe.

Beitz concludes that “not knowing the resource endowments of their own societies, the parties would agree on a resource redistribution principle that would give each society a fair chance to develop just political institutions and an economy capable of satisfying its members’ basic needs.” Beitz argues that the distribution principle would be similar to the Rawlsian principle, where “each person has an equal prima facie claim to a share of the total available resources, but departures from this initial standard could be justified (analogously to the operation of the difference principle) if the resulting inequalities were to the greatest benefit of those least advantaged by the inequality".

Hence, Beitz concludes that we are living in an interdependent world wherein “a global scheme of social cooperation” exists. As social cooperation is the basis of domestic distributive justice, then on the same lines we can affirm the existence of global distributive principles on account of international economic interdependence. Beitz argues that the international distributive principle applies to the least advantaged persons, not the least advantaged states. But Cochran argues that there are simultaneously two strains of argument prevalent in Beitz’s theory, which she terms as weak and strong. Cochran states, “there is a sense in which Beitz hedges his position by offering two arguments, which could be regarded as weak and strong, for international distributive justice. One argument takes states to be the subject of justice, and the other argument [strong] takes individuals to be the subject of justice”.

Beitz reinterprets Rawlsian theory to arrive at international distributive justice, but differences between the two are evident. Rawls theory was epistemic, arguing in epistemic categories. As Rawls himself asserted, he carried the theory of social contract to a “higher level of abstraction”. In comparison Beitz develops a comparatively

\[120\] Rawls, n.1, p.114.
\[121\] Beitz, n.113, p.141.
\[122\] Ibid.
\[123\] Molly Cochran, *Normative Theory in International Relations: A Pragmatic Approach* (Cambridge, 1999). p.26. Cochran further notes that, “the first or weak, argument takes on board the usual assumption in IR theory that states are self-sufficient entities in order to make a case for international distributive justice in arguing that there is a global surplus that requires distribution: natural resources. His second, or strong, argument challenges self-sufficiency as a fact about states in the light of international interdependence, and he uses this to make a case for a global difference principle.” (emphasis in the original), p.26.
existential theory of justice concerned with mundane matters like natural resources and interconnection across states. In short, Beitz’s worldview carries with it a sociological realism despite his contractarian methodology. A similar view has been opined by Cochran, when she argues

despite the indecision in Beitz’s conclusions on the appropriate subject of justice, states or individuals, his case for international distributive justice denies the empirical and moral relevance of states. He writes that the existence of states is a fact of world politics, but the autonomy of states cannot be maintained in the face of interdependence. Global interdependence infringes upon a state’s autonomy. Autonomy is something we confer upon states, a mistake which results from ‘reading “states” for “persons”’. In addition, Beitz finds that international interdependence constitutes global social cooperation; and thus, statehood becomes morally irrelevant. Moral relations do not begin and end at state boundaries, since social cooperation extends beyond the reaches of the state. Therefore, according to Beitz, international distributive justice applies only derivatively to states and principally to persons founding principles for the establishment of just social arrangements.124

Barry also affirms the appropriateness of global justice. He holds that the hypothetical contract of Rawls would only hold or is legitimate only if it does not have any restrictions based on ethnicity and nationality. Barry asserts that the contractarianism is “the best way of giving content to the idea of impartial treatment that underlies moral cosmopolitanism.”125 Barry affirms four principles of global justice. They are (a) an unconditional commitment to equality (b) a principle ensuring restitution of undeserved disadvantages, (c) a commitment to ensuring people’s basic needs are met, and (d) if the

124 Ibid., p. 28. Later, though Beitz is resigned to the criticism of Barry, that global cooperation is not sufficient enough so as to sustain the Beitz’s argument for global justice. However, Beitz still maintains that original position should be at the global level. Since individuals conception is of a moral person, who has a capacity for justice. As all individuals possess this capacity for justice, hence, there should be a global original position, whether they are a part of cooperative advantage or not. Beitz also opposes Rawls’s communitarian turn, where Rawls maintains that his conception is for democratic societies. This conclusion is opposed by Beitz, arguing that it is doubtful, that there is greater agreement among democratic governments over final end. Also, this limitation is self-contradictory. Cochran maintains, “thus, Beitz is still constrained by a Rawlsian theory of justice that refuses international application. Disregarding this, his theory of distributive justice remains limited. In relying upon Rawls’s account of moral personality, he fails to offer us any further justification of why we should support the liberal conception of the person that bolsters his cosmopolitan justice. Here, too, it remains a foundational assumption beyond justification.” p.41. See, Charles Beitz, “Cosmopolitan Ideals and National Sentiment”, Journal of Philosophy, 80, 1983.
above three principles are met, then a mutually advantageous arrangement will be preferred.

Thomas Pogge also advocates global justice. Pogge characterises traditional international relations being practiced under realistic premises, which he designates as "modus vivendi". He instead favours a shared value order. The modus vivendi world order is based on the bargaining position of players, where the players agree on a minimum cooperative arrangement so as to subserve the state's interests. This cooperative arrangement is instrumental. It was akin to the typical balance of power situation. According to Pogge, this limited cooperativeness is only due to the absence of a shared value-based order. This shared value-based order has to recognise international pluralism where, "a useful contribuion to the political task at hand, to over coming violence and starvation, just cannot consist in arguing that all national societies must conform to writer's favored social ideal." Thus, international pluralism has to be accepted for its realistic character. Secondly, international pluralism is plausible, as "it accommodates those who are convinced that different institutional ideals may be appropriate to societies that differ in natural environment and level of development. Also, it accommodates those who think that each national community must be left free (within broad limits ) to work out its own constitution in light of its history and culture, which it alone is able and entitled to interpret and to extend into the future." Pogge asserts that there could be a reasonable disagreement among people, but this does not preclude obligations for global justice.

Pogge thus affirms the obligation and existence of the need for global justice. According to him, the present global economic political order is unjust. It is biased against the developing societies. Therefore, there is a need for measures to amend this

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127 Ibid., p. 232. Pogge makes it clear that he is not favouring any social organisation, e.g. as advocating slavery, colonialism, apartheid or autocracy. "So the idea of pluralism that should be widely shared is by no means tantamount to a general agnosticism with regard to the justice of national institutions. What is needed is the recognition that knowledge and intelligent persons of the good will may reasonably disagree about the fundamental issues dividing the world today". (p. 232) Hence, in contrast to Rawlsian quest for a consensual agreement on final ends (in Political Liberalism), Pogge asserts that, "if only we could understand our agreements about such matters as reasonable disagreements, then we could jointly work toward a world in which alternative answers to those questions could coexist in a peaceful, friendly and supportive international environment." p. 232. (emphasis in the original).
injustice. He argues that there is a negative duty on developed countries to help the disadvantaged. The method he favours is imposing a "Global Resources Dividend". This dividend is imposed on natural resources, primarily to non-renewable resources (like minerals, fuels), however it can also be imposed on renewable resources (soil, air). Pogge holds to the belief that on natural resources even the global poor have an inalienable right. These rights can be exercised through demanding a dividend on extraction of resources. But this does not entail a say in the decision making control over resources. In short, the poor have only the right to a sort of rent. Pogge gives three reasons why the global political and economic order is unjust and needs suitable amendment. Firstly, there is an institutional order shaped by the well off and imposed on the poor. Thus, these shared institutions are accountable for global inequalities. Second, the poor have been unjustifiably excluded from the benefits of natural resource use. Thirdly, our violent history amplifies the argument that the present privileged position is not derived from rightful means. Hence, the obligation to help the poor.

Although, Rawls did not support global distributive justice, he did delineate other elements of global justice. However, his deductions of the principles of international law are injunctions like non-intervention, self-determination and just war. In his latest book *The Law of Peoples*, Rawls deliberates on the principles of international justice. He aims for "a particular political conception of right and justice that applies to principles and norms of international law and practice."129 After arriving at principles for domestic justice, Rawls runs a second session of the original position. He talks of the law of peoples and not of states. According to Rawls, the traditional definition of the state involves two key features. One, they have to follow their national interest irrespective of the effect of doing so on non-citizens. Secondly, states lack moral consciousness. Rawls takes recourse to peoples to signify the lack of absolute sovereignty of the state.130 He argues that, "we must reformulate the powers of sovereignty in light of reasonable law of peoples and deny to states the traditional rights to war and to unrestricted internal autonomy."131

130 Ibid., pp. 23ff.
131 Ibid., pp. 26-27.
In transcending from domestic justice to global justice, Rawls argues that the principles should be "fair to peoples and not individual persons". Rawls distinguishes between five types of society "liberal peoples, decent peoples, outlaw states, "societies burdened by unfavourable conditions" and "benevolent absolutisms". Liberal peoples believe in core freedoms and ensure a fair level of economic resources to their citizens. Decent peoples have a non-expansionist foreign policy, aim for the people's good by recognising some basic rights and have some type of consultation procedure. Rawls argues that only liberal and decent hierarchical societies agree on the following principles.

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.\(^{132}\)

Simon Caney criticises the Rawlsian principles for global justice on four major grounds. Firstly, there is a problem with Rawls's view that we cannot force liberal values of distributive justice down the throat of other societies since the Rawlsian idea that liberal and liberal and hierarchical societies agree on eight principles of global justice follows from the definition of these societies itself. Rawls gives no reason why both these societies are morally acceptable. Further, the Rawlsian contract is ad-hoc, since why some rights are acceptable and some not is not properly argued for.

Secondly, "Rawls' argument is vulnerable to an imminent critique for even operating within his parameters there are cogent (Rawlsian) arguments for embarking

\(^{132}\) Ibid., p. 37.
much more egalitarian principles of global justice than the meagre one that he countenances.”

Thirdly, Rawls contention dismissing wealth’s critical importance is problematic. Further, his assumption that it is the domestic factors not international factors as cause of economic development is not correct since international factors have an effect on a society’s political and economic structure. Fourthly, according to Caney, “the deepest problem from a cosmopolitan point of view, however, lies in Rawls’ assumption that what matters is the condition of societies... This commitment to the worth of societies independently of their effects on persons, however, seems mysterious and implausible.”

Andrew Kuper, commenting on Rawlsian global justice, argues that “Rawls has begged some of the central questions of global justice by adopting at the outset a “thin statist” conception of the legitimate divisions between persons who share a world.”

Kuper contests the Rawlsian conception of unitary-nation state, with limited sovereignty, and favours a more plural nesting of political structures. Further, Kuper is not willing to forego democratic rights as “rights to full free speech and democracy are fundamental requirements of global justice.” Patrick Hayden argues that “Rawls own account of international justice is caught between competing theoretical tendencies. On the one hand, Rawls’ account is greatly influenced by the tradition of political realism and its focus on the nation-state as the principal actor in international relations. On the other hand, his account evokes a globalist disposition, which holds that states’ interests are not primary and that the concerns of global justice revolve around individuals and their rights.

Hence, the preceding analysis of contractarian approaches to global justice amply shows that a more existential approach to the conception of state (not as concerned with some metaphysical final ends) is necessarily needed. As epistemic theorising becomes more and more abstract, its application becomes restricted. As Kant emphasised

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134 Ibid., p.986.
136 Ibid., p. 641.
limitations of reason, these epistemic abstract categories inevitably began to incorporate culturally relative features thereby obviating global justice. As Pogge emphasised, we must accept the existence of "reasonable agreement" among peoples, states and ends, as was very well exemplified by Beitz and Pogge’s deducing principles of global justice by asserting global interdependence and claims on natural resources Beitz asserted arbitrariness of allocation of natural resources while Pogge favoured a global resources dividend. Despite the profundity of their assertions for global justice, the arguments were of philosophers intended as a debate in moral philosophy. Conceptualising the world as a global consumerist society, where global flow of goods and commodities is resulting in a global consumerist society; consequently, it has obligations of justice on a global scale. It is very well exemplified by some of the arguments put forward against unethical business practices by various consumer groups. Hence, consumerist society has consequent obligations of justice.

CONSUMERIST SOCIETY AND JUSTICE

Justice as conceptualised through linkages and interlinkages, as existing in a consumerist society, will show obligations at global level. Communitarian theories of justice do stress a contextual approach to justice. Michael Walzer stresses on the importance of justice, but denies its conception as a historical, universal and external to community.\(^\text{138}\) Walzer argues that it is unhelpful and rather wrong to look for universal abstract definitions of justice. Hence, what is needed is a historical definition of justice, placed in local culture and social understandings. According to Walzer, social solidarity requires that there should be "complex equality", whereby inequality in one sphere does not spill over to other spheres. Hence, spheres of justice, implying that inequality in wealth should not lead to inequality in access to public services. Another prominent communitarian theorist, Sandel, repudiates Rawlsian theory of justice as "the first virtue of social institutions."\(^\text{139}\) Rather, it is a "remedial" virtue, which seeks to set right flaws and problems prevailing in the society. There would not have been a need for this if society had sufficient solidarity and benevolence. Sandel cites the family as an institution where no justice is needed.

\(^{139}\) See Sandel, n.89.
Edwin Baker contests Sandel's contention, asserting instead that justice ensures that people form a community voluntarily without domination of any group whatsoever.\textsuperscript{140}

The lacunae with communitarian theorists are that their emphasis on communal elements in ideas and practice of justice accedes to the mythic distinction between community and society as emphasised by Ferdinand Tonnies.\textsuperscript{141} This mythic conception of community restricts the scope of justice to the boundaries of the state. Tonnies distinguishes between gesellschaft and gemeinschaft, where gesellschaft are loose, contractual and product of an act of will, while gemeinschaft are more cohesive, organic and sharing bonds of identity and experience. As George Schwarzenberger pointed out, "whereas the members of a community are united in spite of their individual existence, the members of a society are isolated in spite of their association... it is the adjustment of diverging interests which is the essential feature of society."\textsuperscript{142} Tonnies asserts that "all kinds of social co-existence that are familiar, comfortable and exclusive are to be understood as belonging to gemeinschaft. Gesellschaft means life in the public sphere, in the outside world. In gemeinschaft we are united from the moment of our birth with our own folk for better or for worse. We go out into gesellschaft as if into a foreign land."\textsuperscript{143}

\textsuperscript{141} Ferdinand Tonnies, Fundamental Concepts of Sociology, trans. by Loomis (New York, 1940) Introductory Article.  
\textsuperscript{142} George Schwarzenberger, Power Politics (London, 1941), p. 35.  
\textsuperscript{143} Jose Harris, ed., Tonnies Community and Civil Society, trans by Jose Harris and Margaret Hollis (Cambridge, 2001) p. 18. Tonnies further explicating about the gemeinschaft argues that in "natural state there is a complete unity of human wills." He argues that this unity is maintained even if people are disparately located. Tonnies maintans, "the common root of these relationships is the all-embracing character of the sub-conscious, 'vegetative' life that stems from birth: human wills, each one housed in a physical body, are related to one another by descent and kinship; they remain united, or become so out of necessity. This direct mutual affirmation is found in its most intense form in three types of relationships: namely; (1) that between a mother and her child; (2) that between a man and a woman as a couple, as this term is understood in its natural or biological sense; and (3) that between those who recognize each other as brothers and sisters, i.e. offspring at least of the same mother. While the seed of Gemeinschaft, or the bias of human minds towards it, is to be seen in any relationship of kinsfolk, these three are of special importance as containing the seeds which are strongest and most readily nurtured. Each of them is significant in its own special way." p. 22 (emphasis in the original) On the other hand, gesellschaft, had a more sanitized rather negative version of human association. Tonnies in it people were detached from each other, and people live in tension with each other. Further, people's contacts with each other are selfish, i.e. people only get into each other to subserve some selfish ends. As Tonnies maintains "the various spheres of power and activity are sharply demarcated, so that everyone resists contact with others and excludes them from his own spheres, regarding such overtures as hostile. Such a negative attitude is the normal and basic way in which these power-conscious people relate to one another, and it is in characteristic of Gesellschaft at any given moment in time. Nobody wants to yield or give anything unless he gets something in return that he regards as at least an equal trade-off." p. 52. (emphasis in the original)
This distinguishing of society into two types is arbitrary, and lacks sociological realism. It is akin to Walker's characteristic of dichotomous thinking producing "inside/outside dichotomy". Tonnies describes contemporary society as "individualized society", where the individual element is paramount and society is only the recognition of sameness and belongingness. That is, there is no organic conception of individuals living while pursuing some particular metaphysical teleological final end. The term society recognises that there won't be any cohesive system arising from it. Hence, the communitarian emphasis on society sharing some final absolute end is mythic. Though one can't deny that man develops himself, there is no "unencumbered self", but his development of self in a particular state, society and time is a historically contingent manner. This should not imply that all our moral scope begins and ends with that. Tonnies's distinction between gesellschaft and gemeinschaft is at best only a Weberian ideal type, which does not reflect actual society. Contemporary society is somewhat between these two extremes. Global consumerist society does not only emphasise linkage in the form of goods and commodities, but also of identification developing between people across societies. This identification and interlinkages gives another prime reason for extending the scope of global justice.

The obligations of justice can't be derived from the contract doctrine of liberal welfarism or the self-ownership dictum of the libertarians. In the Tonnies's example of the ideal community relationship as being between mother and child, there is no contract between mother and child, consequently deriving rights for the child or obligation of the mother. The liberation doctrine of self-ownership can't be stressed either as that would mean that the mother owns the child. As Susan Okin argues, if we accept the self-ownership argument then a mother owns her child, which would imply that a self-ownership of one generation means slavery for next.  

Feminist conceptions of justice are against the abstract conceptions of rights and justice, instead stressing a contextual approach. Feminists oppose the distinction between public and private, and assert that families should also come under the purview of justice. Carole Pateman argues that "feminists are trying to develop a theory of a social practice

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144 Susam Moller Okin, Justice, Gender and the Family (New York, 1980), especially see "Libertarianism: Matriarchy, Slavery and Dystopia". pp. 74-88.

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that, for the first time in the western world, would be a truly general theory including
women and men equally-grounded in the inter-relationship of the individual to the
collective life, or personal to political life, instead of their separation and opposition."\textsuperscript{145}
Feminist ethics repudiates the distinction between morality and politics. As Kimberly
Hutchings argues, "there is a sense in which feminist ethics has always unsettled and
subverted the morality/politics binary that helps to define the business of modern moral
philosophy in the western academy."\textsuperscript{146} It emphasises that politics and morality should be
seen interlinked, politics must shun having its own separate justifications. Further, the
predominant strain in Western moral philosophy has been that they are all epistemic, i.e.
derived from Cartesian \textit{cogito} rationality. Similar views are opined by Hutchings arguing
that,"... one common thread that runs through all feminist ethics is the argument that the
moral theories, religious and philosophical, that have dominated thinking about morality
from ancient to modernity in the west are fundamentally political in one key sense. All of
them purport to be the revelation of God or outcome of reason..."\textsuperscript{147} It is this tendency to
derive all moral obligations from episteme, or reason as in the case of Rawlsian
"reflective equilibrium" or Korsgaard's "reflective endorsement", which fails to
appreciate obligations deriving from more "mundane" existential categories. Here,
obligations arising from the participation in global consumerism either as producers or as
consumers is asserted.

Similarly, O’neill, develops Kantian cosmopolitan theory to give it an existential
interpretation, which Charles Jones traces back to Kant himself. But O’neill’s
contribution is that instead of focusing on traditional Kantian metaphysical principles, she
emphasises the material and psychological needs of individuals. As O’neill claims, "the
details of human justice must take account of the most basic needs that must be met if
other human beings are not to be fundamentally deceived or coerced. Any just global
order must \textit{at least} meet standards of material justice and provide for the basic material

\textsuperscript{145} Carole Pateman, “Feminist Critiques of the Public Private Dichotomy”, in Anne Phillips, ed, \textit{Feminism
\textsuperscript{146} Kimberly Hutchings, “From Morality to Politics and Back Again: Feminist International Ethics and the
Civil-Society Argument”, \textit{Alternatives}, 29, 2004, p. 239.
\textsuperscript{147} Ibid.
needs in whose absence all human beings are overwhelmingly vulnerable to coercion and deception.”

Peter Sutch favours constructivist developmental communitarianism. It is constructivist since it favours a construction of commonly agreed principles, which need not follow Kantian liberal cosmopolitanism. This developmental communitarianism, as developed by Walzer, Rawls and Frost, does not see the state or sovereignty as incompatible with human rights. Rather, a constructivist procedure will favour agreeing on principles which are not abstract but historically and contingently located. According to Sutch, “for the developmental communitarians however the justification of the principles of liberalism are themselves contingent upon history, upon consensus or the shared development of a background justification for the principles of international relations”. But Sutch favours developmental communitarianism, which is based upon the consensus of states. It will lead to minimum standards and result in an international society, which still agree on only peaceful co-existence among states. Basing justice on consensus among parties will always come a cropper.

A very topical development in the contemporary world, emphasizing the interlink between consumerism and ethics, has been variously termed as business ethics or corporate social responsibility (CSR). Although the “corporate social responsibility” term is of recent origin, it has been in existence under various epithets. According to Blowfield and Frynas,

business practices based on moral principles and ‘controlled greed’ were advocated by pre-Christian western thinkers such as Cicero in the first-century BC and their non-western counterparts such as India’s Kautilya in the fourth century BC; Islam and the medieval Christian Church publicly condemned certain business practices, notably usury. The modern precursors of CSR can be traced back to nineteenth-century boycotts of foodstuffs produced with slave labour, the moral vision of entrepreneurs

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149 Peter Sutch, *Ethics, Justice and International Relations: Constructing an International Community* (London, New York: 2001). Sutch argues that, “in many respects constructivism is simply an attempt to come terms with the plurality of moral convictions in an interconnected world. Metaphysical disputes about the nature of reality or the ontological disputes about the nature of God are, in many cases, irresolvable”.

p. 4.
150 Ibid., p. 8.
such as Cadbury and Marks, and the Nuremberg war crimes trials after the Second World War, which saw the directors of the German firm I.G. Farben found guilty of mass murder using slave labour.\textsuperscript{151}

While the earlier stress on business ethics, arose out of religio-ethic precepts or injunctions, emphasising on the way of life to lead. Presently, CSR is involves elements of environment, development and human rights. However, we would like to stress justice component in it. CSR is based on more secular principles of obligation. Still there is no agreed definition or consensus on CSR. It is held to be involved with a number of partially amalgamated issues, viz., animal rights, corporate philanthropy, corporate accountability, community development and labour rights. Divergences in the understanding of CSR can be gleaned from the World Business Council for Sustainable Development’s definition of CSR as “the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the work force and their families as well as of the local community and society large.” It later changed its definition to “the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life.”\textsuperscript{152}

The basis of CSR has been largely ignored in the social sciences, though in the field of management, various business cases have been made out. Business cases assert an increase in profitability (through the new opportunities created), or brand building (indulging in philanthropic activities increases the salience and identity of brands) or as a means of risk management (where potentially threats from the environment are prevented). However, we stress on the communal feelings arising out of consumer interaction. This communal bonding invokes obligations of justice to the environment in which business is located. The characteristic feature of CSR is voluntarism, which evidently resonates with O’neill’s obligations based approach towards global justice. It is not denied that there are practical problems in the practice of CSR, which has been vehemently questioned by critics. But at the theoretical level, it can’t be gainsaid that whatever disparate examples of CSR are cited, it is a potent example of obligations

\textsuperscript{151} Michael Blowfield and Jedrez George Fynas, “Setting new agendas: Critical perspectives on Corporate Social Responsibility in the developing world”, \textit{International Affairs}, 81, 3, 2005, p. 500.
\textsuperscript{152} Cited in ibid., p. 501.
arising from partaking in consumerist society. It can be argued that examples of CSR are few and far between, and even its beneficial effects are not adequately expressed. The only response which can be made at this objection is that good can't be blamed for not being perfect. The voluntary character of CSR more than enough expresses at the theoretical level, justice arising from consumer relations. This is in variance with contractarian justice, where people contract under the veil of ignorance in the original position or incorporating some of final ends as emphasised by Rawls in *Political Liberalism*. The predominant stress in the study of CSR has been the local contextual approach. But the need is to recognise consumer relations as relations which can give rise to and sustain obligations of justice. However, the need is to give it a more coherent shape, invoking delineated features and giving it a global reach, which involves both companies (especially multi-national) and states.

CSR is seen, according to Blowfield, as “now intertwined with international development and the related goals of poverty alleviation and sustainability.”\(^{153}\) CSR is seen as filling the gap in development and poverty alleviation.\(^{154}\) This development came through by shedding earlier suspicion of business as exploitative or inherent contradictions between development and business. It was in the 1980s when the business role in alleviating underdevelopment was emphasised. By the 1990s, the role of international trade and investment was seen as crucial to economic growth. Similarly, stressing on not seeing global consumerism and the poor as being antagonistic,"

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\(^{153}\) Michael Blowfield, “Corporate Social Responsibility: reinventing the meaning of development” *International Affairs, 81*, 3, 2005, p. 515. Blowfield takes an analysis of “CSR-development” relationship, arguing for a critical view of “CSR-development” relationship, arguing for a critical view of CSR, which questions the prevailing views and practices of it. Particularly, he is critical of business case of CSR, which works on non-negotiable business values, and ignores more rigorous public policy approach needed to subserve the common good.

\(^{154}\) In India, a potent case in made of right to information as a constitutive factor of justice. An example, of CSR being practiced in India is case of e-choupals set up by ITC. Indian company ITC set up cyber “e-choupals” in rural areas of Madhya Pradesh in 2001. These “e-choupals” provided connectivity to 1.8 million farmers. Where they can check the prices of key commodities prevailing in the big markets as compared to local areas. By this facility soya a farmers of Madhya Pradesh managed to sell their products directly to ITC, garnering about $6 higher prices per ton. This cyber connection's successful social intervention has lead to demand for more products and services like, availability of fertilizers and soil testing.
Hammond and Prahlad assert, “turning the poor into customers and consumers is a far more effective way of reducing poverty.”

Rhys Jenkins does not have as positive a image of CSR. Jenkins questions the belief in CSR as ensuring reduction in poverty and favouring equitable growth. Jenkins argues, that “CSR as currently practiced in unlikely to play a significant role in reducing poverty in developing counties, despite the enthusiasm of many development agencies. It is also doubtful whatever reform of CSR can make it more available to achieving this objective.” Peter Newell favours development of the CSR, but with better regulation methods which can ensure accountability and community participation. Community participation is asserted for especially marginalised communities, lack purchasing power, networking abilities and communicative competence. As Newell asserts, “a significant limitation of many existing CSR approaches is that while they may encourage ‘responsible business’ to go ‘beyond compliance’, they provide few checks and balances on the operations of ‘irresponsible’ businesses, for which strategies of regulation, sanction and protest continue to be key drivers of change. This is particularly problematic in communities that are affected by such investment practices but are not identified as legitimate stake holders by business, and lack sufficient influence within government policy-making to articulate and defend their concerns.” However, Frynas, terms CSR as “false developmental promise” because “there are fundamental problems about the capacity of private firms to deliver development, and the expiration of achieving broader development goals may be flawed.”

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156 Rhys Jenkins, “Globalization, Corporate Social Responsibility and poverty”, International Affairs, 81, 3, 2005, p. 540. Jenkins primarily rests his argument on the business case of CSR, which had intrinsically limited scope. Jenkins asserts that CSR is a negative concept e.g. injunctions as prohibiting, child labour and environmental responsibility. Poverty reduction needs more ambitious serious effort, rather than adhoc approach of CSR. Also, CSR had the centrality of stakeholder, which limits its geographic scope. For example, a company investing in city will not have consequent obligations for the rural areas.


While the practical importance and working of CSR can be debated, there is also vagueness about the philosophical basis of CSR. It is asserted here that CSR arises from moral relations forged in the link of consumerism. This link can be asserted to form a global consumerist society, where people may or may not agree on some of the final ends as emphasised by communitarians. CSR evinces obligations arising out of the moral community formed through being a part of the global economic order. As Blowfield stresses, “the dominant model of globalization has a moral dimension that is being treated as universal just as its economic and political dimensions are.”¹⁵⁹ This moral dimension can be traced to the globalisation of consumer society, which moral philosophers have unhelpfully neglected. Because of their straitjacketing of moral and political, moral relations and obligations can only be said to arise out of “reflective equilibrium” or Kantian practical reason. As Kant himself emphasised on the limitations of reason, therefore endeavours to derive principles of justice is fraught with an incompleteness which is sure to reflect in the culturally limited domains (i.e. states) as scope of justice. As we have seen existential theories like utilitarianism are more favourable to the principles of global justice. It is not that contractarians didn’t derive principles of global justice, as was done by Beitz and Pogge, but they had to climb down from their abstract reasoning and focus on resources, and starvation. Similarly, O’neill reinterpreted Kantian philosophy and emphasised, the material and psychological needs of the individual. She was thereby able to derive the obligations of justice.

However, this position is vulnerable to the criticism that countries or areas which do not form part of the consumerist society, as envisaged here, will not come under the purview of global justice. For example, a country practicing autarky, even if in dire straits, cannot claim benefits of global justice from the international community. Criticism of this sort ignores the difference between justice and charity or philanthropy. The concept of justice incorporates a sense of right. If our rightful possession is taken away, then and only then we can complain of injustice. If we don’t have a right to another’s property, we cannot claim his/her ownership as a violation of our right. Obligations towards an unrelated people can only be of charity, even if moral

¹⁵⁹ Blowfield, n. 151, p. 524.
philosophers, in their penchant to widen scope of justice, ignore the differences between charity and global justice. Hence, people in a global consumer society have the right to justice, which was ignored under colonialism and imperialism.

GLOBAL INEQUALITY

Now we turn to the other more realistic and practical side of dialectic between consumerism and justice, where global inequality can be cited as violation of justice, thus obstructing global consumerist society. Increasingly global inequality is stressed to be leading to an unravelling of societal stability. The World Development Report shows increasing inequality across the globe. It showed that real per capita incomes for the richest one-third countries increased by 1.9 per cent annually in the period 1970-95, while that of the middle third countries rose by 0.7 per cent, but the bottom third had no increase at all. This data corresponds with Wallerstein’s core, semi-periphery and periphery. The Western industrial nations and Japan have seen average real income increasing about by 2.5 per cent per annum since 1950. These countries with about 15 per cent of the world’s population account, for 60 per cent of the world G.D.P. The present international economic order, in the name of the “Washington Consensus”, argues that the open economy attracts foreign investment which leads to growth. But past experience belies this orthodoxy. The lumpsum investment increased by almost seven times from 1980-1997, making a jump from 4 per cent to 12 per cent of world G.D.P. in that period. Seventy per cent of FDI went to the OECD countries while eight developing countries attracted about 20 per cent, and the remaining went to 100 poor nations. According to World Bank figures, in the period 1992-1998 only 7 percent of FDI reached developing countries. “The traditional advantages of poor countries have been in primary commodities (agriculture and minerals), and these categories have shrunk from about 70 per cent of world trade in 1960 to about 20 per cent at the end of the century.” 2.8 billion people of 6 billion people of the world survive on less than $2 a day, and 1.2 billion subsist on less than $1 per day, of whom 44 per cent live in South Asia. Further,
the average income of the richest 20 countries is 37 times the average of the poorest 20 countries. This gap has doubled in the past 40 years. In the rich countries less than 1 per cent children do not reach their fifth birthday, while in the poorest countries it is about 20 per cent.

Commenting on the unhelpful nature of the developed countries Pogge points out, "the developed states, during the same period [post-cold war], actually cut their official development assistance (ODA) as a share of gross national product (GNP) by about 27 percent. They have also reduced their allocations to multilateral development efforts, revised Part XI of the 1982 United Nations Convention on the Law of the Sea to the disadvantage of developing countries, and imposed onerous terms of trade on the later in the context of the Uruguay Round." According to a UNDP report, "no fewer than 100 countries - all developing or in transition - have experienced serious economic decline over the past three decades. As a result per capita income in these 100 countries is lower than it was 10, 20, even 30 years ago." On this rapid increase in global equality, Thomas maintains that "surely the time has come to say that global economic integration in the twenty-first century is a legitimate goal only if it works in favour of global redistribution of resources." In fact, Thomas terms it as a global faultline because inequality is not only morally undesirable per se, but has strategic significance for international relations.

As Jeffrey Sachs observes, increasing inequality can lead to state failures, increasing terrorism and conflicts, in short, it is liable to affect peace between and within states. Andrew Hurrell is of the view that although the traditional security agenda and mechanisms like balance of power and collective security were based on hierarchy and inequality. But in the contemporary times, the security agenda has shifted and widened to include new issues like environmental security and human security. These new issues are not amenable to solution through military means. As Hurrell noted, "hierarchy and

equality of power remain one (but only one) element of international order, even though the difficulties of harnessing military power to political purposes have become more serious and the tensions inherent in the Clausewitzian logic have grown less manageable.”\textsuperscript{167} Economic causes have been attributed to cause civil wars. Economic stress has been seen particularly to affect countries with ethnolinguistic fragmentation. It will be very important to note that private consumption spending per capita increased by 1.9 per cent per annum in the period 1980-1998 and on the other hand sub-saharan African with 49 countries and a population of 645 million in 1999, witnessed declining trend by 1.2 percent per annum.\textsuperscript{168} It is no surprise that sub saharan African has been mired in conflicts. Africa during the decade of 1990s has seen the most violent conflicts related to economic crises. The disintegration of Yugoslavia has been also traced to the economic instability and hyperinflation of the 1980s.\textsuperscript{169}

CONCLUSION

In this chapter an attempt has been made to explore and exhibit the epistemic bias or rather the epistemic-existential duel, in theories of justice. We have seen that epistemic theories are less pliable to enjoin global justice, as is evident in the contrast between utilitarianism and contractarianism The feminist theorists, attempting to dissolve the binary between moral philosophy and political practice, posited a desirable way forward by constructing principles of justice through more existential categories viz., resources, which show the obligation of justice spreading across the globe. The penchant for moral theorists to construct principles of justice, from the “reflective equilibrium” of Rawls, to the “reflective endorsement” of Korsgaard and “categorical imperative” of Kantian practical reason, gives them a constricted approach, thus restricting the scope of justice to the boundaries of nation-states. O’neill’s reinterpretation of Kant, or her “maverick Kantianism”, which conceptualises human beings as composed of material needs and psychological desires, succeeds in positing global justice. On similar lines, the global consumerist society enjoins the rich to make efforts for global justice. While O’neill built


her principles of global justice on an obligations based approach, the global consumerist society bases obligations of the rich and powerful on being a privileged part of the global consumerist society. The linkage across consumerist society may not be as philosophically appealing, or indeed share in some metaphysical final ends. But this obligation is no less "categorically imperative". Further, deprived individuals of a consumerist society have a right to help, not as a matter of charity but as a rightful member of global consumerist society. On the other side at more practical level, global inequality in an obstructing factor in this society, with its consequences of civil war which will also be a threat to world as a whole in the form of migrants, refugees and other harmful consequences.