Justice for All?: Reevaluating the Limits of Justice
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**Abstract**

 In the pursuit of justice for all, an undeniable social good, in the end it is common that governments achieve none at all. The more that government tries to create equality; it finds that it cannot create justice for one group without incurring on the rights of another. The research that follows is an expedition into how a government can avoid such a paradox, and how it can work for justice for all in its truest form. Drawing upon the philosophies of John Rawls and Karl Marx, the pursuit of property-owning democracies is the most effective way to date to achieve this ultimate goal. Though it is of course not without its faults, property-owning democracies seeks to distribute wealth to the greater population while maintaining the positive, goal-driven psychology of capitalism. It must be made clear that what follows is not socialism or Marxism in its truest form, but a new kind of economic system that strives for solidarity. Using case studies of France and South Africa, the most closely resembling forms of property-owning democracies today, this research sees the faults in these systems and recognizes that they can be improved.

Justice, second to democracy, is the most sought after principle today. It is the basis for all social order. Countries, especially the United States, strive for distributing justice to everyone, while attempting to limit exclusion to others; when the scales are balanced, justice has been achieved. But it has been theorized that in our endless pursuit of justice, in the end justice is replaced with injustice. Thiele (2006) says, “in the struggle for justice, life and liberty may well be sacrificed as a means to a greater end” (202). With this, we are reminded of the attacks of 9/11 and the subsequent PATRIOT Act, which allowed the U.S. government unprecedented access into citizens’ lives in an effort to protect the nation from future attack, in the name of national security. However, all this aside, to what extent is this theory valid? Is there a way to extend justice to everyone without limiting it to anyone? If so, how do we accomplish this? This paradox of justice seems unrighteous and counterproductive. In an optimistic light, the more justice we create, the less injustice there is. Here we will define what this type of system looks like, and where it can already be seen in the world today.

**A Review of Justice and its Limits**

 It seems incredible that justice can breed injustice. Justice is based on compromised, says Dr. Kevin Anderson. We realize that the ultimate good cannot be achieved because the greatest option is not possible. To give an ultimate sentence to one person may result in too harsh of a sentence for the act committed, the basis for retributive justice, which we will come to later. So we settle for a lesser common good. Thus, the image of the scales of justice are always depicted as level rather than tipped. When Osama bin Laden was killed in 2011, citizens across the United States celebrated this as a great success. ‘Justice has been done,’ Obama addressed the nation, but at what cost? When Navy Seals were sent on a covert operation to raid bin Laden’s compound in Pakistan, it was done so without Pakistani authority. Violating their political and geographic autonomy, this was more or less an illegal act. We lied to them, and violated the Pakistani’s trust. Though the United States killed the most wanted terrorist, there are many incursions we violated in order to achieve it. “Justice can’t balance injustice” Anderson says (personal communication, November 26, 2012). In striving to establish justice through retribution, more wrongs are made. The original loss cannot be replaced. After further loss of collateral, a perceived justice becomes another’s injustice. For this reason, the limits of justice apply to retributive justice, which, borrowing from the ancient Greek definition, is “giving to each what is due.” It also applies to commutative justice, or justice through torts and compensation. It does not apply to distributive justice, which I will define as the allocation of resources.

 When discussing commutative justice and the allocation of resources to correct a wrong, we already see that in this instance, like retributive justice, the original wrong cannot be undone; nor can the original property be replaced. In America, there are countless television and newspaper ads for defense lawyers for automobile accidents, workplace mishaps and medicinal malpractice, all promising that they can get the plaintiff a settlement. The United States justice system, in some respects, is notorious for settling via lawsuits, rather than more private means. Granted, such settlements can help pay for hospital bills and the like, which can have a practical use. But when considering individuals who sue for seemingly mediocre things, one must seriously question their intents. Then again, these cases are few and far between; when one person sues another for damages, obviously there is some wrong that has been done and needs to be corrected, however big or small it may be. Though in some lawsuits where the damages paid far outweigh the costs, one cannot rule out the possibility that the plaintiff sees such opportunities as a get-rich-quick scheme. The defendant then becomes the purged victim. It is for this reason that commutative justice can be easily tainted with injustice.

**Neo-socialism Redefined**

Justice, it is said, is difficult to achieve because in order to deliver it fairly to individuals, it requires that all circumstances are the same. We use precedent to determine what is fair, just and right, but it is rare when two cases are the same. They may be similar, but the people involved in each respective case vary by identity, status, and other circumstances. Thiele (2006) quotes Plato: “‘all human experience make it impossible for any art whatsoever to issue unqualified rules holing good on all questions at all times…It is impossible, then, for something invariable and unqualified to deal satisfactorily with what is never uniform and constant’” (206). For this reason, it is impossible to deliver justice fairly in a society that has hierarchies creating gaps between people, making one superior to another in some form or fashion.

In societies where there are marked wealth disparities, one may find these types of injustices. When a person comes before a court of law, or even in deciding to whom subsidies (e.g. financial aid, state or federal subsidies) it is the circumstances of their situation that is taken into account. In the United States, such a person’s status is determined first and foremost by their income. It is their income that determines where a person is situated in the social class system, and thus how they are regarded by others, whether they are higher or lower in classes (it is economic competition that drives these attitudes). Hacker (2010) says that, “Governments *do* redistribute what people earn. But government policy also shapes what people earn in the first place, as well as many other fundamental economic decisions that consumers, businesses, and workers make. Practically every aspect of labor and financial markets is shaped by government policy, for good or ill” (55). The government plays a pivotal role in providing for the needy as well as maintaining the positions of those who are not, even the middle class by introducing laws that keep them the largest working, most effective sector of the economy. Yet, this also applies to the wealthy. In his book, Hacker (2010) goes on to explain how the government benefits the upper class at the expense of the rest. No matter a person’s status, there are laws and policies that are in place that benefit those classes. So, effectively, the government maintains socioeconomic classes, and has little effect in converging them (of course this is not to say there are not any anomalies; certainly anti-poverty programs and programs to elevate people from lower socioeconomic classes are in place and are effective at some rate).

If we assume this to be true, we see that such competition and inequality is typical of capitalist societies. Rawls (2001) supports this notion. He says that in laissez-faire capitalism, while it achieves formal equality, “it aims for economic efficiency and growth constrained only by a rather low social minimum.” It achieves equal protection of the law and the same application of it to all people regardless of circumstances, not all people may engage in the economy on as grand of a scale as others can. This still leaves room for wealth gaps which, over time, tend to increase[[1]](#footnote-1)\*. Welfare-state capitalism, Rawls (2001) continues, is marked by a survival of the fittest. Again, while it strives for equal opportunity, the rule of the majority wins. Those who can engage in the economy more reap the most benefit while those who cannot for any reason, fall behind. Like laissez-faire capitalism, it also achieves a rather low social minimum—the amount needed to provide a basic sustainable lifestyle. In continuing with an obstruction of civil liberties resulting in injustice, we may also include state socialism, a command economy controlled by the central government that does not allow its people to actively participate and influence it (137-8).

 Thiele (2006) references Karl Marx, pioneer of Communism. If we agree that a person achieving the most basic liberty and property, then they have a chance to engage in the free market through their ability to buy, sell and exchange it. In a partial, or capitalist, society where justice is based on economic structure, a state cannot be impartial if it sees its people as distinctively different. A person who has significantly less wealth will be seen as inferior to he who has an unrestricted accumulation of wealth (cited 212).

 For a state to be impartial, it must essentially see all of its citizens on the same fundamental levels. It is for this reason that in support of Rawls (2001) and Marx, fair justice can be delivered in a socialist society. From here, we see that it is in distributive justice that justice for all, without inequality, is achieved. Justice in a capitalist society is more or less a state of mind. By having the notion that one is superior to another or that a person can and should earn their own success, if they can’t succeed, it is of their own accord. When they cannot succeed, they are forced to live with policies that do not address their needs.

 In mid-20th century America, a time of incredibly opening of civil rights to different groups, the government began to strive for helping those who were disadvantaged. Affirmative action programs were created for minorities to have a place in the job market and African-Americans were desegregated in schools, allowing the same education whites were receiving. Through all of this constitutional liberalism, there were very few instances where the acquisition of one group’s rights impeded another’s in a very real way. People did not support desegregation because Americans had a preconceived notion that blacks were inferior or posed a hazard to whites’ wellbeing. They did not hamper whites’ education in any tangible way.

 To deliver justice fairly, Rawls (2001) describes what is known as the “original position.” The original position is a frame of mind where an individual removes all sense of identity, gender, social status, financial value, etc. in order to make an unbiased decision. This results in a removal of personal prejudices and other disparities in decision making, or in a realistic scenario, sentence deliverance in a courtroom. Rawls (2001) calls these “constraints.” The same applies for those appointed to represent another in legal defense (81-2). It is even difficult, but not impossible, for a person to vindicate themselves without acknowledging full guilt or providing some justification for their actions. Although the judge in question is supposed to be an arbitrary party with no political affiliation or prejudices, their decision is made on the attorneys who make their cases, and sometimes can have political motivations as well. Perhaps they are seeking to “make an example” out of an individual, indeed in order to deter others from making the same decisions, but also to support some political or even moral agenda.

 So then how does a government ensure equal protection of the law, civil liberties and equal identity while still allowing for the free-market economy of capitalism? Rawls (2001) describes this as property-owning democracy. The idea of “one people, one vote” ensures democracy and mutually owned property creates fair dispersion of the profits. Profitability of this entity results in maintaining competitive markets as they try to outmaneuver the more profitable state. It attempts to increase the most good for everyone, thereby creating avenues for how decisions can be approached; rather than it being an end to the means, it is the means to an end. Like capitalism though, property-owning democracy, as the name suggests is concerned with an individual’s right to own property, but the way in which profits are dispersed to the people changes. For capitalists, it may lie in the hands of the elite (138-9).

**African Democracy**

From here, I will continue with Marx’s definition of justice as it relates to economics. One could indeed argue that capital and wealth is an interpretation of having a right to life, liberty and property. While true, this also suggests that some societies are different from others. If we examine a capitalist nation’s policies versus that of a socialist state, we would see how they differ and where the positives are of the latter that are not apparent in the former state. A resounding example of this has been South Africa. In a continent rife with corruption, under development and wars, South Africa stands out as being the model for all African nations. What sets them apart? What have they accomplished that other nations have not? It is a nation that is still recovering from a past that has left a gash on its society. Apartheid, or “separateness,” was a fifty year period similar to that of segregation in the United States. The white elite made policies that disadvantaged, repressed and divided blacks from whites. The election of Nelson Mandela in 1994 brought an end to apartheid, and Mandela began to rebuild. Harris (1993) writes, “…South African capitalism was inseparable from apartheid, liberation was inconceivable without the overthrow of capitalism…the idea of a revolutionary capture of state power was associated, by default, with a conception that centralized control of the state would confer the ability to control economic and social change” (92). The divisions between people provided an incentive for people to come together, embrace each other with open arms and work together for peace (even though apartheid is over formally, traces of it are still apparent in social relations between blacks and whites). While society worked on its end, the government implemented socialistic policies like the Growth, Employment and Redistribution (GEAR) strategy, the South African government aimed to increase housing for its citizens and as the name suggests, promote employment within the country. Until Mandela retired in 1999, South Africa was a fantastic business prospect. It was forming relationships will all of the key political players like China, India, Brazil and the United States and as a result, was one of that fastest growing nations in the world.

But now, reports suggest that the nation once heralded as a success story is sinking, and there are various reasons why. A booming economy, coupled with South Africa’s large black population has created another pseudo apartheid. African-owned businesses have created elites, keeping the profits in the hands of the few, and little wealth trickles down to the lower classes. Though parts of South Africa’s economy are socialist in nature, it itself is not explicitly defined as socialist. Corruption and greed that plagues the rest of African countries seep into South Africans’ human nature as well. The classes are a result of the still-healing apartheid era that pits white against black, rich against poor. An increasingly corrupt, ineffective government creates a growing disparity between the state and those it governs.

Yet, the troubling question is if South Africa has been experiencing an economic boom, how is it that the unemployment rate is stagnant, as statistics show? The nation has heavily invested in exports of all kinds: natural resources, agriculture, machinery, etc. And so for private businesses, this is where the money is. Subsequently, the financing sector has been booming in South Africa. Usually, as a business grows more profitable, it allows it to grow and hire more workers, but the government’s affirmative action programs severely hinder these operations. A February article from *The Economist* mentions that business leaders are willing to hire, but feel that the government is going the opposite way. Law requires that companies’ senior management must be compromised of 60% black South Africans (currently 26%), barring more competitive foreign workers from employment. Stringent employment laws and an undereducated work force is what keeps unemployment rates at roughly 30% (2011).

In another article, *The Economist* also describes how South Africa’s educational system is becoming increasingly ineffective. The standard of teaching has been steadily decreasing, and with it a lack of up to date technology and textbooks. More white students pass than blacks, and more blacks are dropping out of schools. Higher up, the same political party, the African National Congress (ANC) has ruled Parliament since 1994, and a lack of political opposition to President Zuma results in the prolonging of South Africa’s troubles, and the less the government has a direct control over economic activity; if nobody challenges him or the party, there are no alternative courses of action to get the nation back on track. Additionally, corruption is becoming more commonplace (2012). These dysfunctional systems will result in an uneducated population that results in more poverty and crime as a means of getting by. Further, an unintelligent upcoming generation means people that are either undereducated to participate in the workforce or politics or simply not interested, or the knowledge and sophistication to conduct either in an ethical manner. For the future, this also means that the youth will be increasingly less likely to participate in the democratic system, and a one-party rule, probably the ANC, still persists.

Let us look at this case in perspective. South Africa is not declining solely because its economy is not profitable or crashing; it is not in an uncontrollable spiral. Rather from the top down, selfish political actions and a lack of leadership is what is allowing it to get out of hand. The government does not have a grasp on the nation’s problems to take action because it is locked in its own political struggle and is losing sight of its liberal heritage because of one party rule. The country needs fresh ideas; it needs another Mandela.

**French Socialism**

 From as early as the French Revolution, France has strived for solidarity and equality among its citizens. After the French Revolution, the new government promised security for all, no matter the cost. Today, France overall has done very well at implementing a socialist society, Smith (2004) describes. It has a very moderate work force, whose components receive excellent education for themselves and their children at prestigious universities. The French receive universal health care, which is very inclusive as far as pharmaceuticals, doctor and hospital visits, etc. Workers can enroll their children in daycare, all provided by the state through a very progressive tax on French citizens. Even outside the work force, there is quick and efficient public transportation and even government subsidized housing. Although France does run a deficit like virtually any other government, one is well off in to live there, and even more so to work there (3-5).

But yet, since then, Smith (2004) also argues they have not succeeded in their utopian socialistic state. France is struggling to handle the largest crisis of the European Union and inequality in welfare is abound. Why? Going all the way back to the French Revolution, the government failed to help those truly in need. The poor and lower class received very little state assistance. It did not catch on, and perhaps this is partly the cause for France’s multiple upheavals in their political history (they are currently in their Fifth Republic). The excellent security given to French citizens today apply to those who have jobs. In effect, France has created its own class struggle, which the 1789 Revolution sought to oust from society (5-10). Additionally, France’s government jobs are usually bureaucratic in nature. Thus, France today has a corporatist government. Smith (2004) also recalls that in 2002, a French union leader proposed a plan to raise pension contributions .3% of GNP every year until 2040. The plan was that, eventually, there would be some money left over which would be used to help disadvantaged families, health and education (52). But the matter remains that the policy applies only to those in the working class, and have very little to no effect on the lower classes. Smith (2004) also reports that in 1981, Prime Minister Mauroy, in an attempt to combat unemployment and redistribute jobs only made both worse. He announced a new government program that would allow workers to retire at the age of 55 in the hopes that they would be quickly replaced by another seeking employment. The then-retirees would receive pensions. In result, the open positions were either rarely filled by less expensive workers, or were replaced by technology. The government created a larger deficit paying for workers. It had, in effect, subsidized inactivity (111-2).

 We see then, that France has the potential to be a great thriving socialist state. However economic trials globally have hampered any efforts, recent reports show that it is continuing to meet its deficit reduction goals and actually improve its GDP, if only slightly (Viscusi 2011). France is the second largest European economy and so, for the most part, French citizens live in a comfortable luxury. Though one cannot be so bold as to say they are outright restricting the rights and privileges of the lower class, but have been ineffective in doing so. They are reluctant to change, Smith (2004) says. Those who have work, homes and healthcare are perfectly content. It makes sense that they would not think that the wellbeing of others is any worse. So while the working class prospers, the poor is becoming more so. France categorizes itself as a social democracy, but such would require a reform according to Rawls’s (2001) philosophy of socialism. This would include not just government, but of cultural perceptions and norms as well.

**Justice in International and Domestic Affairs**

 If the limits of justice theory was upheld, then we would ultimately see conflict between multiple parties attempting to pursue justice. While one party attempts to establish justice, its agenda would be corroborated by that of another, and in the end, peace would not prevail. After all, it is said that the more we try to create justice, more harm than good is done. Simple logic would tell us that the more organizations we have striving for justice, the more it is trying to be achieved. So then, what of the many NGOs and IGOs that exist to establish peace? The programs of those such as Amnesty International and the UN do not conflict, but they work side by side to provide aid to people everywhere in times of need. In theory, it seems this would counterweight the null hypothesis, but we must look at a real life case where, actually, it might support it. In 2009, the International Criminal Court (ICC) issued an arrest warrant for Sudanese President Omar Hassan al-Bashir for the atrocities in the Darfur region since 2003. In retaliation, Bashir suspended the licenses of foreign aid groups who work in the region, supplying medical aid to the victims there. The ICC’s attempt to bring justice inadvertently risked the lives of many because life-saving aid could no longer be brought. When the ICC issued a warrant for a head of state, it in effect shook the entire government structure and government officials involved in the genocide.

[T]here is a very serious downside risk to indicting a sitting head of state, in fact, basically indicting an entire government structure, when there are no measures in place, no mechanisms, actually to protect the people in whose name this is being issued…Now, yes, we all support justice, but can justice be pursued at the expense of withdrawing essential humanitarian support that keep millions of people alive (de Waal 2009)?

While the ICC’s decision appeared to jeopardize the government’s structure, it cannot be described as rushed or ill-advised. Over a six year period, the Court surely has thought of alternative methods of bringing Bashir to justice. Not every plan is perfect, and there will be complications. But again we are brought back to the original question of justice: whose agenda is more important, the ICC indicting a government for crimes against humanity, or risking the security of the Sudanese people in an effort to rid them of a malicious leader? In passing, de Waal (2009) mentions an important matter at hand, “The horrendous crimes were committed 2003, 2004, and they’re not being remedied.” Again we return to the initial problem of commutative justice. In removing the person charged with these crimes, the victims of them are not and cannot be rectified. There can be no action that will replace the harm done to the victims’ family. The expulsion of these groups was not an order from the ICC itself, it was a largely political decision on Bashir’s part, and more importantly, a largely unforeseen one. His ongoing efforts to subjugate the people in Darfur is all the more reason that he should be brought to justice; that action alone cannot be held accountable on the ICC; it was a decision independent of the initial arrest warrant, though it does appear that it was a result of it.

**Freidman’s Negative-Income Tax**

Remarkably, such a redistribution of earnings has been formulated, but has been lost to time; Nobel Prize winner Milton Friedmann advocated what he called the negative-income tax. Miron (2011) resurfaced this formula, and appeals it to its use in the anti-poverty agenda in the United States. He begins by explaining how the United States government grossly overspends on anti-poverty programs such as welfare, Link cards, Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP). Not only do these programs endorse the problem, it also endorses inactivity. Families, for better or worse, eventually come to a certain learned helplessness—they realize that the harder they work, the more the government will tax them, and they will never make enough money to rise above the poverty line, so they remain on such welfare programs to merely survive. Even in an ideal property owning democratic society we will encounter this; there will always be people who simple “ride the system,” relying on others’ contributions while they contribute little. There is little to incentivize these individuals, other than to call upon nationalism, collective effort and working for the betterment of the nation—a classis socialist principle. Dagger (2012) deems that the reduction of “surfers,” as he calls them, is to promote education of citizenship, dual co-operation and reasonableness. He says that when education is provided to individuals, they are more likely to attain it, and when they attain education, whether it is on a study in a certain field or simply about how to become a better, more productive citizen, the likelihood that a person will recklessly gamble away their grant money will decrease.

Students should gain “knowledge and an understanding of institutions” so

that they can make their way in the world, but they must also learn that

they have parts to play in those institutions. In particular, they need to learn that they, as citizens, have a responsibility to help realize that idea of society as a fair system of cooperation—a responsibility that includes what Rawls elsewhere calls “the duty of public civility.”

The negative income tax works as follows:

 consider a negative tax-rate structure under which the

guaranteed minimum is $5,000 and the tax rate is 10%. In this situation, a person earning no income would get a transfer from the government of $5,000 and have a total income of $5,000. A person earning $100,000 would have a gross tax liability of $10,000 and a net tax liability of $5,000, for a total after-tax income of $95,000. A person earning $10,000 of income would have a gross liability of $1,000 and a net liability of negative $4,000 (that is, this person would get a check from the government for $4,000), for a total after-tax income of $14,000

 To elaborate, we arrive at the following equation:

**Earning × Income tax rate + ($5,000 guaranteed minimum) = Income after taxes**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| $0 **×** | 10% | = $0 | + ($5,000) | = $5,000 |
| $10,000 **×** | 10% | = $1,000 liability | + (9,000+$5,000) | = $14,000 |
| $100,000 **×** | 10% | = $10,000 liability | + ($90,000+$5,000) | = $95,000 |

 Of course, the first problem one may notice is the amount, $5,000. Let us redefine this as Rawls (2011) social minimum, the amount needed for a person to afford the most basic human needs. Now, $5,000 is well below the poverty line, so this amount is to be determined by further governmental legislation. Amending this program, if we maintain our current progressive income tax, wherein those in the upper quintiles (dividing the population into 20% increments) pay a heavier tax than those in the lower quintiles, we may extract more from those who earn more and thereby redistribute more wealth, increasing national prosperity. It would be foolish to maintain a flat tax, as this is one of the fundamental problems for inequality today. If the wealthy pay the same as those in a middle class, though this may be part of the socialistic society we desire, it is unequal. We must also remember that because our taxing system is incredibly complex, these are rough calculations to suggest an end. Reforming our current tax system to this one would have to take into account individuals filing single or married, as well as how many dependents one may claim. This is even more intrinsic when considering lower class families who have multiple children.

If the United States were to phase out SNAP, Link and TANF programs and offer cash settlements, Miron (2011) continues, they could use them more flexibly. Instead of buying only food or only items authorized by the welfare programs, parents could invest them in college funds for their children, buy a house or a vehicle, or anything else that may be beneficial to the family. Of course, some recipients may use such funds for nonbeneficial things such as alcohol, cigarettes or drugs, but Miron (2011) argues that for the families who have a true vested interest in their families, and other legislation may remain intact to maintain the programs’ integrity, they will use it to provide shelter or clothing for their children.

 Miron (2011) reports that currently, the government spends annually approximately $1.45 trillion in anti-poverty spending in 2007 (the last year before the deep recession of 2008; a 2012 1040EZ calculates approximately 10% for individuals filing single). If these were directly divided up into the lowest 20% of the nation’s poor, that would mean approximately $62,000 per household. So in one year, a poor family could rise above the poverty line to a middle-class wage, and because of the higher tax bracket, they would pay a higher income tax and the federal government may actually see a return on the investment—for just one family (“Rethinking Redistribution”).

**Conclusions**

As we have seen, we begin to encounter justice when the state seeks to deprive a society or even an individual of his or her individual rights. Although this may at times be necessary, such as a criminal being incarcerated or because he or she was found to pose some real threat to society. When a person loses their rights, they lose political and civil abilities that establish them as a citizen, as an autonomous human being (of course, here I am referencing specifically to mature, grown adults, and not children or young adults whose list of political rights is much shorter). In the studies of South Africa, people’s rights aren’t being taken away per se, but the government’s inability to address their needs only prolongs their problems, make them worse which ultimately creates the declining state that it now finds itself in. As in France, the French government’s inability to successfully address the needs of the lower classes creates a similar problem; the very fact that I can refer to these groups as “lower class” in a society which, from the start, was meant to have no class at all is evident enough of a problem! The French have changed the meaning of the word “solidarity.” A term that is supposed to entail equality, co-operation and unity Smith (2004) says, now means security for those who have jobs and a way of life. Government buildings that adorn the word *solidaritie* are buildings that house government workers whose job it is to protect the rights, privileges and offices of the French workers (7-10). And yet again, in Uganda when Bashir ordered the removal of humanitarian aid, he jeopardized many more lives for political gain. The weights on justice’s scale were shifted, and balance was lost.

Although there are no longer any concrete examples in modern day politics, let us examine fascist states (though there are few authoritarian states), whose operations are meant to rule by law in order to create peace, assuming we define a fascist state as such. After all, the fascist state seeks to impose law and regulation to bring about order, balance and justice. The end result is the dissolution of a person’s individualism and personhood. Instead, they become a product of the state, working only for the state’s—and by extension, the person’s—own greater good. If these states are to establish justice through law, would that not seek to disprove our new theory? Not entirely. These states seek to take away individuals rights, rather than empower them. Both are ways to establish justice, but with different outcomes. Using more formal terminology in conjunction with the cases I have provided in this analysis, a state that uses negative liberty powers seeks to take away individual’s rights and creates injustice while a state that uses positive liberty powers seeks to grant its citizens more civil rights creates justice. The differences between neo-socialism as we have seen above and fascist states require a discussion not entirely pertinent to the one here, but in short, while both seek to establish equality amongst its citizens, a fascist stake seeks to do so from a ruling elite while neo-socialism requires that the government provide for its people and the people are equal in the eyes of the government and each other.

Because justice in the court room shows a correlation between sentencing and a person’s economic abilities, we may now see that if we can improve the economic system of a country, we then improve the equality in sentencing in a court room. We need not focus our attention on laws and judicial proceedings when economy and a courtroom’s inner workings are directly correlated, if not synonymous. Further, this is not to say that the rich cannot be rich because it would not be fair to others, but rather that when all have the same economic capabilities and advantages, there would be a much more diminished sense of social class (perhaps even none at all!), and thus all person’s circumstances, abilities, political or otherwise, can be much more relevant to another’s. While many picture justice as solely in a court of law, a fair economy means fair distribution of resources, and the balance remains level.

This evaluation of the limits of justice is not to say that injustice cannot occur in these settings, but it occurs only in certain circumstances and in different ways. If the theory fails, it is because the state has allowed it to fail. As the cases of South Africa and France show, some of the most socialist, democratic systems’ programs are failing because the government has lost sight of their original intentions. To Americans, progressive tax reforms seem like the state is unduly taking of the profits of our labor. But abroad, the mentality of solidarity and providing for the common good is justifiable. It is also noteworthy to mention that the United States is a complex case. It does not have a homogenous population like most other states have. Its conglomerate of various ethnic backgrounds and histories create an environment where it is impossible to create policy to suit everyone, and each person’s unique circumstances are especially prevalent. States in Europe, Africa or even Asia possess societies with similar identities, so there is less social tension among groups. France is uniquely French; Russia is uniquely Russian, and so on. In short, fewer factions mean more consensus in decision making.

So how can a system operate with the capitalist nature of competition and maximizing profits while keeping everyone on the same level? These types of institutions are already in place, and they need drastic reform to remain in place. The reforms suggested here are doubtfully concrete, and discussion and debate on the matter is welcomed as it progresses our inquiry. I do not yet know if a progressive income tax is desirable at this point in time in the United States. Though more revenue would naturally increase the redistribution, in such a frail economic climate, I can only know that indeed, those better off in society shall contribute more to the burden, but as to how much is still a question of much debate. Let us also be reminded that this is not a call for a revival of socialism or communism in a modern age; it is realizing that it is possible to expand justice without so limiting it, and without creating injustice. There is no formula for justice, only ethical guidelines to follow. Every state will encounter its own trials in developing egalitarian policies, and that, too, must be recognized. If a state has failed to achieve justice, it should first asses its values. It must assess what laws, programs are in place, why they are in place and whether or not they are having a real, tangible effect on people for the worse. Are they helping people become better off, or are they a structural restraint? Elected officials should asses their political and personal choices and take a long, hard look at how they affect the greater populous. All too often do leaders make decisions and do not take into account their actual effects; what is put on paper is far different from what actually happens, and perhaps this is why socialism has failed. Some laws are created with seemingly good intent, even though they cannot be fully enforced. Even most optimists may admit that it is impossible to completely prevent all malice, but for property-owning democracies, it can certainly reduce it.

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1. \* By “wealth gaps” I mean inherently unjust ones. Agreed, in competitive economic models, if one’s assets are greater than another’s, this could be justified. Perhaps such a person has more valuable skills, has worked harder to earn those skills (education and earnings resulting from that). A wealth gap is unjust when two individuals do not have the same equal access to achieve a certain outcome, the basis of my thesis. In the United States, two individuals with equal opportunity but with difference of outcomes would justify one’s success and the other’s failure. If the inequality or “superiority” is due to merit, this is not injustice. However, there must also be certain social institutions in place that allows both individuals to have the same chances of success, which I am advocating for in this essay. In short, equal access can create divergence, whereas equal opportunity can create convergence. [↑](#footnote-ref-1)