

Notwithstanding the old adage that "life is not fair", in this work we take it as reasonable that fairness is something to pursue. (This might be debateable, but we will not consider that here.) This means we are looking for impartial treatment without favouritism or discrimination within our society, or that is about what the typical dictionary suggests. Justice then, again based on an aggregate of what is in the dictionaries, can be said to be simply the administration of fairness, most typically by legal means of a society. This can include dealing with crime, regulation, access to public services, and promotion of wellness in general. There are various philosophic theories that are considered reasonable ways to approach forming a just society, including the utilitarian theory attributed primarily to Jeremy Bentham, entitlement theory attributed mainly to Robert Nozick, the justice as fairness theory developed by John Rawls, and the capabilities theory attributed to Amartya Sen and Martha Nussbaum. In this paper we consider justice, or fairness, as something that a state can deliver, and present the utilitarian and capabilities theories; the first of which seems a little staid, but the second is kind of charming.

The utilitarian theory, attributed primarily to Jeremy Bentham, suggests a society should just try to maximize utility, which at its most basic level is happiness, defined simply as the sum of all pleasure and pain; this is proposed to be the most fair and just role for the state. If pleasures have positive value and pains have negative value, then a more positive sum means more happiness (utility) is derived. This can be used to evaluate individual or group actions, but in this case we are considering a state acting to maximize utility. The most obvious problem that arises with this approach is that it tends allow some people to do very much better than others, and in fact some can do very poorly, as long as the total utility (economy say) is maximized. However, a somewhat less obvious problem, that particularly bothers this author, is how intellectual pursuits, which are to some degree difficult to describe as pleasurable, might tend to get lost in the evaluation. For example, simply focusing on providing access to plentiful food, with more sugar, salt, and fat, could turn out to be the best thing on which a state could focus, to maximize happiness for the majority of people, but this author would just not be interested in that society, even if it could be seen as the most fair and just use of the state.

The capabilities theory, attributed initially to Amartya Sen, and then contributed greatly to by Martha Nussbaum, considers what a person is able to do and to be, looking for a way to promote flourishing, rather than simply maximizing say GDP-per-capita, like the utilitarians might tend to do. Nussbaum in fact created a list of ten capabilities that a society, and therefore a state, should try to facilitate, as a minimum. She argues that one cannot realistically imagine life with dignity where even one of the ten capabilities is missed. She also notes that more capabilities could be added if one feels the dignity criterion requires it. The list contains fairly obvious capabilities such as life, and health, but also some less obvious ones like being able to laugh and play, being able to show concern for animals and plants, and exercising senses, imagination and thought processes. This last one would seem to promote the idea of one being able to think about many varied things, to write and make art, consider various new ideas, and to perhaps therefore have the educational tools to do these things. An admitted problem is described as involving "tragic choices", where given a finite set of resources, while trying to facilitate all capabilities to some level, trade-offs will have to be made among the capabilities, and this will likely affect different people in unequal ways, which would seem to be unfair. Nevertheless, this author is somewhat charmed by the theory, primarily because it promotes a number of very attractive things, such as senses, imagination and thought, which would seem to make for an enjoyable life and society in which to live. (Anyone else looking forward to the utopian Star Trek universe?)