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Formative Justice: The Regulative Principle of Education

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Background/Context: *Concepts of justice relevant to making personal and public decisions about education.*

Purpose: *To clarify a concept of formative justice that persons and the public often ignore in making decisions about educational effort.*

Setting: *"The windmills of your mind."*

Research Design: *Reflective essay.*

Conclusions/Recommendations:

- *Problems of justice arise whenever persons and polities cannot have it all, whenever they must choose between competing "goods," positive or negative.*
- *Different types of justice arise because persons and polities have to make constrained choices between different types of goods—with distributive justice, they allocate scarce material goods and benefits among many claimants; with social justice, they reconcile conflicting rights and responsibilities; with retributive justice, they determine sanctions and punishments; and with formative justice, they channel effort to pursuing particular possibilities out of the many open to them.*
- *Problems of formative justice arise because persons and polities always face the future and find more potentialities unfolding before them than they have the energy, time, ability, and wherewithal to fulfill. They must choose among their purposes and allocate effort and attention to pursuing their potentials. In doing so, they form their unfolding lives.*
- *Conceptions of formative justice concern principles with which persons and polities choose their controlling aspirations and allocate effort towards their fulfillment.*
- *Formative justice is difficult because persons and polities always face an indeterminate future, one fraught with uncertainties. In the face of indeterminacy, they must irrevocably make their formative choices, hoping these will prove both successful and sustainable.*
- *Formative justice is important because persons and polities will suffer or enjoy, as the case may be, the capacities for feeling, thought, and action by which they live.*

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In this essay, I reflect on the human problem of acting justly. I discuss the work that concepts of justice perform in human action. I situate a concept of formative justice relative to other forms of justice (i.e., distributive, retributive, social). And I explore some implications formative justice can have for educational policy and practice.[1]

ACTING JUSTLY

Why does *justice* exist?[2] I want to ask this question naively, without imputing a tacit conception of justice to it. Why is it a matter of human concern? Justice does not seem to be a problem for the pebble at my doorstep, the sand on the beach, the mist in the morning air. Justice arises as a concern for acting agents, especially persons and polities,[3] as they lead sentient, choice-filled lives. Justice is a concern in acting, a reflection on a felt imperative to act justly. But why and how does this imperative of *acting justly* arise? Is acting well, effectively, not enough?

Acting, doing anything, exercising control in any situation, whatever the intent and associated spheres of perception and effectuation, is not simply an instrumental matter. It has embedded in it a primordial problem of justice, an imperative of measure, of fit. In life,[4] intentionality is never simple, a univocal end served by a single means. The exercise of a means has both direct consequences and side effects, all of which are relevant and bear upon the purpose. And every intention has a temporal depth, which makes it complex. The actor must weigh the immediate value relative to eventual ones, risk against probability, cost against benefit. And no one does only one thing at a time. Intentions cascade. All actions have multiple consequences and no one does only one thing at a time.

As someone does something, as someone synthesizes perceiving and acting through an intent, he is trying to do justice to the intent, to form and perform the intent in a manner worthy of his abilities. He tries to do it justly, to serve an end-in-view, which is also an end beyond that view, a complex, many-sided end, ultimately the purpose of continuous self-maintenance. Doing so is a matter of assessing the intent in itself and in its context, of weighing it relative to other intents, both the possible and the pressing. Doing requires finding the right measures appropriate to the intent, of perceiving circumstances rightly relative to the intent and of acting appropriately in accord with the purpose, with the purposefulness of life—neither too little nor too much.

Such deliberations, large and small, happen over and over in the innumerable attentive motions and glances that constitute a person's being in the world. All acting, for the actor, is an effort to exert *control*.[5] The actor does that by forming an intent, relative to which he can sense pertinent

feedback and with it exercise instrumental means. The action as a whole starts with a norming—channeling attention and forming an intent—and it carries through to completion with a sequence of doing, instrumental efforts guided by feedback about the situation relevant to the intent. The intending is a norming; it is not merely normative in the sense of conforming the intent to some given norm. Instead, the intending *norms*; it creates the norm; it attributes worth, purpose, through the controlling; it is not given a value; it creates value; it projects meaning and purpose into the world.[6] Without the intentionality of living agents, the universe would be an insentient chaos of meaningless stuff.

At this point, saying that all acting has inherent in it the imperative of acting justly really says only that acting has a norming aspect. Norming takes place, but there are no norms in an overarching sense beyond the ad hoc value implicit in each intention. Acting "justly" is so far an empty signifier and we might just as well say that acting "happily," or acting "prudently," "truly," or "virtuously" is inherent in the norming aspect of intending—the existential commitment of vital worth to the intention. Certainly as empty signifiers, all these, and many more ways of speaking, make sense. We need to start filling in the signifier, and we can start by asking—In acting justly, what might the place of *justice* be?

THE WORK OF JUSTICE

Thinking constructs[7] the world as we come to experience it, having learned to transform raw capabilities into seeing, touching, tasting, hearing, smelling[8]; to move, to act within and on it. All acting is both norming and instrumental, and the norming comes first, for perception and action become instrumental by serving the worth asserted through the controlling intent. Thinking enables perceiving and acting to gain purposeful power, complexity, nuance, endurance, and scope. Justice is a key part of this thinking. Justice pertains, not primarily to the outcome of an act, but to the spirit and character of the acting, to the norming inherent in it. Justice is a concept essential for thinking in the course of acting justly.

To act justly is to act in ways conducive to living, to the self-maintenance of a self-maintaining agent.[9] Usually the human actor maintains himself, *qua* person, but he often works towards the maintenance of others as well, family members, persons in a group, an organization, a community, a nation, all humanity. In a sense, the individual mortality of every living agent is the condition that gives life, the sum of living forms, the recursive power by which it creates and maintains itself in a universe that without its teeming intentions would be entirely dead, meaningless, devoid of value.

In endless ways, the imperative of acting justly, in a way conducive to the maintenance of life, rules all action. It leads to the Socratic conviction that no one willingly does evil. To act is to will self-maintenance. But the deeds done are always contingent. Whether or not they turn out to have been done justly is always uncertain in two distinct ways. First, the act may fail to achieve its end-in-view. For instance, people too often speculatively invest savings, intending to become wealthy, and lose them when the investment fails. This, and numerous others, are instrumental failures, failures that every act risks. Because every action can fail instrumentally, the actor must always attend to the imperative to act successfully. This imperative leads to histories, personal and collective, as the stories of success and failure.

But that is not all, for in many situations the actor can fail to judge his intentions rightly, mistakenly pursuing an intent that proves not to have been what he really wanted. For instance, over time one of our speculative investors might have been very successful, nurturing his savings into substantial wealth, only to realize that he had sold out and never developed his artistic talents, which really had more meaning for him than the luxuries he now enjoys.[10] He acted successfully, but not justly. It is the threat of this second kind of failure that leads us to form reflective purposes, to examine life through its sense of fulfillment to find what truly serves its self-maintenance.[11] Justice is a vital concern in the activities of life because people have to judge, in the continuous, many-sided acting that living comprises, what will actually serve self-maintenance, what ends-in-view will really prove to be most meaningful in life. It leads to histories as irony, personal and collective.

In this way, a reflective problem of justice arises in every activity, for all activity faces an indeterminate future that harbors many possibilities from which the actor must concretize an intention. He may act on impulse, but soon seeks a thoughtful adjustment between desires or needs and the capacities to fulfill them. Doing so requires choices between potential goods, attributing worth to the intent relative to other possibilities. We do not think about these attributions of worth in many routine activities, treating them as if they are simply instrumental concerns. But some matters evoke doubt, a nagging feeling of unease, indignation, contention, aggression, despair. As in routine concerns, in these more portentous situations, people must also make choices about how they will conduct themselves.

Brooding, people chose more reflectively; in doing so, they developed concepts with which to deliberate about the larger implications of their choices. Were the choices right, not only in the instrumental sense, but in the normative—were they choices that would actually do rightly what the person really intended? When people recognized that they lived mortal lives with finite capacities, acting intentionally in portentous situations,

they recognized that they had to limit and direct their intentions. A person might do so impulsively, suffering the consequences, whatever those proved to be. Often the consequences suffered suggested that people should try to act reflectively, forming concepts with which to type situations and to suggest prudent intentions relative to them. Important concepts in this reflective effort became the principles of justice, enabling people to examine their vital intentions. People could form these concepts and could use them to examine intentions, because the qualities that the concepts represented had been immanent in the intentions, implicit in the flux of acting. With thought and care, persons made these qualities explicit. An idea of justice, evident in their reflective detachment, enabled them to assess the character and worth of their purposes. Now they could pursue them with forethought.

Concept formation, *Begriffsbildung*, has an important history.[12] In its general form, as people did things, justly or unjustly, some activities recurred with significant consequences, which came to characterize important, identifiable aspects of life. Each of these recurrent activities had the general structure of justice, the need to steer action towards a difficult, consequential goal, but their goals were not transparent, univocal, simple. Lived lives were complicated and many-sided. People had many goals simultaneously, each with its own priority, scope, and duration, all of it flexing in a flow of controlling effort. Recurrently, in this changing river of intentional actions, people became aware that they could form and use a concept to define a complex, amorphous purpose. To do so, the concept had to resolve an important purpose with sufficient precision so that it could serve as a point of reference in efforts to control the goal-directed action. Thus, in the flux of life, people intellectually constrained some purposes, typing them in order to empower the process of control. The constraining idea came to define a particular form of justice. As people reflected on different modes of action, they subsequently abstracted out types of justice, concepts of justice particularly relevant to acting justly in those discernibly distinct modes of acting, and they developed a particular criterion for making judgments about each type of justice. Such representative situations and the criteria for making judgments relative to them were diverse, but they all pertained to the need to assess and select among multiple possibilities when pursuing all of the possibilities effectively at once was neither feasible nor prudent.

Justice, as a noun, as a named thing denoting these concepts, exists only in the realm of abstraction, as an idea. Striving to act justly in the midst of actual circumstances constitutes the experience of life—it is the distinctive challenge to human judgment. For instance, early Greek thinkers originated a concept of justice as a general, all-inclusive principle for thinking

about acting justly in the vicissitudes of life. To begin with, the relevant principles were simply called *dikê*, an uncertain sense of order relative to which a person might perceive and compensate for significant divergences. *Dikê* recompensed for straying off course, correcting something gone awry. It made it possible to steer towards a goal or *telos*—ultimately guiding all things through all things. *Dikê* gave the ancient Greek concept of "justice" its name, *dikaiosyn* .[13] The sense of modulation—nothing too much, perceiving and correcting an imbalance, a disharmony, a hubristic excess, a departure from the fit course—initiated thinking about the power of negative and positive feedback to control action, steering it towards some goal. The inchoate concept encompassed several distinct forms of justice, each a latent species within the genus, and as key thinkers became aware of the complexity of *dikê*, they separated out some of the key forms of justice.[14] This process continues apace.

To think with a concept of justice about how to steer in pursuing a complex, amorphous purpose, the concept must serve to resolve the purpose with sufficient precision so that it can serve as a point of reference in efforts to control the action. Thus the concept must constrain the purpose to empower the process of control. We will call the constraining idea the *telos* or goal of a particular form of justice—allocating scarce resources, ascribing rights and privileges, fitting punishment to the crime, forming the capacities with which to live. As people reflect on different modes of action, they subsequently abstract out types of justice, concepts of justice particularly relevant to acting justly in these discernibly distinct modes of acting, and each type of justice characteristically has a particular criterion for making judgments about it. These criteria are diverse, but they all pertain to the need to assess and select among intentional possibilities when pursuing all of them effectively at once is not feasible or prudent.

For instance, distributive justice[15] becomes a vital concern in life because people often have to divide up goods and benefits among members of a group when the stock of these is insufficient to meet all their contending expectations. Distributive justice has been of paramount importance to people because the goods and benefits available have been too scarce and desire for them too strong and diverse. The goal is imperative but what it means in practice is unclear and hence the problem of distributive justice requires a criterion, usually named *equity*, which specifies what the distribution should mean in practice. Disagreements about distributive justice primarily turn on disagreements about its operative criterion, about what constitutes equity.

Distributing public goods, material and social, is and will remain an activity of great importance in the human world. People therefore pay close attention to doing so justly, appropriately, regulating rightly how they will distribute limited resources, privileges, and offices among a surfeit of

claimants. How should people decide, individually and collectively, to balance the competing claims of poverty and luxury? How should they reconcile the few, seeking to get more, with the many, stunted by too little? Each feels his claim is sound. The debate about equity, the norm to be served in distribution, has gone on and on and will continue. Answers change, but they always serve as a shaping influence in the conduct of life, both personal and public.

Beyond distributing goods and benefits, life entails many other forms of activity. In these, acting justly is a vital concern as well. For instance, someone transgressing the ruling norms within a community will trigger actions for restitution and retribution. The punishment of crime started happening long ago and easily got out of hand, as the record of feuding shows. Cycles of revenge often escalated and exceeded the communal capacity to sustain effectively the resulting tension and conflict. As that happened, people developed principles for thinking about what punishment fit the crime. Thus they developed principles of retributive justice to manage who would punish transgressions, how and why, a development memorialized by Aeschylus in his *Oresteia*.

Over time, people came to enjoy multiple rights and to bear complex responsibilities as members of different groups. When these conflicted or when persons could not fulfill all of them, all the time, to the satisfaction of all parties, difficult issues of social justice arose. *Antigone* by Sophocles is the great Greek drama depicting the clash between established norms of the familial estate and the emergent norms of the *polis*. Problems of social justice are endemic in complex societies. For instance, early in American history, despite their rhetoric, leaders were more sensitive to the rights of property than they were to the rights of man and they rationalized the institution of chattel slavery with high-minded principles. Globally, through long and difficult conflicts, people have struggled to establish the priority of human rights over property rights, and the effort must continue. Many issues of social justice still divide people from one another, and everywhere they must still work out their social tensions as some enjoy excessive privilege while others suffer the lack of human dignity.

Problems of social justice often intertwine with those of distributive and retributive justice, as the daily news shows all too consistently. Thus, the continuing effects of the social injustice of slavery are embedded in issues of distributive justice such as affirmative action, and even in problems of retributive justice, as America's real exceptionalism, its atrocious incarceration practices,[16] makes evident. Having to deal with multiple instances of multiple types of justice, people must not only seek principles of justice to guide imperative choices within specific spheres of action, they must harmonize those different principles of justice with each other.

People live life whole and have a vital need to integrate diverse efforts at acting justly across the full range of activities that take place in the course of life. With key concerns, and across all those concerns, their palpable purposes conflict and exceed their possibilities. Intentional action is inherently instrumental in that to pursue a purpose one must exert control to achieve it well. But intentional action is also inherently subject to limits, to checks and balances, to choices, not of instrumentality, but of relative worth, of fitness. Which among competing goods are the most appropriate, the right ones? Principles of justice serve in making these choices, in judging the worth of competing intents, a whirl of different possibilities.

FORMATIVE JUSTICE

All persons, individually and in many combinations, have to choose at any moment among numerous potentialities and possibilities for action. Here is the problem of acting justly in its most general sense. Whether or not the choosing will is "free" is immaterial[17]; in the midst of action the outcome is indeterminate and the actor must try to empower the will, be it free or fated. Thus, people are always facing numerous possibilities, not all of which they can satisfactorily pursue. Talk to a young person starting out on her own, indebted from school, newly married with a child on the way, with a good but pressured job, a husband in medical school, an incomplete novel tucked away in her desk. Can she have it all? What possibilities should she give up?[18]

These life choices present the most basic, unavoidable problem of acting justly that people confront—determining their controlling purposes, large and small, personal and collective; constructing fields of relevant perception, weighted by grades of intensity and attention; and developing particular capacities and activating them effectively to pursue their intents. People form their lives by making these determinations, doing this and not that, becoming this and not that as their patterns of purpose, attention, discrimination, energy, skill, affinity, and effort build up. These concerns fill our lives, challenging us continually to decide on our purposes, to form our skills and efforts inwardly as well as we can, and to deploy our capabilities as fully as we can manage.[19] This is what is taking place as a person tries to act justly and as she works to control her self-formation. This is the preeminent problematic of living justly.

As we have seen, extensive literatures have developed on distributive justice and social justice, a substantial one on retributive justice, and growing ones on ecological justice and intergenerational justice, to name a few. Each form of justice is a field unto itself. The result has distracted attention from the original, most basic difficulty in acting justly, which Plato examined quite fully in the *Republic*. But as more specific forms of justice

resolved out of the overall problem of justice, the remainder, still vitally important, became relatively obscure, for it lacked a specific name. To come back into prominent view, the basic problem of acting justly, controlling the activities of self-formation by a person or a collectivity, deciding how to conduct one's life, needs a name—*formative justice.*

Principles of formative justice regulate, implicitly or explicitly, activities through which people work out their controlling purposes, intentions, potentials, and possibilities, and develop their capacities, perceptive and active, with which they can pursue their intents.[20] As situations merit, other forms of justice come into play within the overall, ongoing context of formative justice. But formative justice suffuses life from start to finish. Watch a small child, still a novice in living with clear intents, walk outside, flitting from one interest to the next. A few years later, now a youth, she will walk with greater purpose, her curiosity less catholic, her action more pointed. Through formative justice, persons, or groups of persons, allocate attention and feasible effort among their multiple potential purposes whenever they cannot achieve all of them, fully and surely—a condition always facing persons and groups. Attention, intelligence, and energy are finite, while urges, desires, needs, and aspirations are manifold and exceed capacities to bring them to fulfillment. Hence, all people all the time must exercise formative justice in the course of self-organizing their lives.

Formative justice denotes the way persons control their self-formation, their efforts to shape their capacities and to define their controlling purposes. But a name is not itself an explanation of how the named process actually works. The name helps concentrate our attention on the aspect of experience, but a name is not a magic incantation, conjuring it forth in substantive experience, fully developed, as if from the head of Zeus. How do people actualize and exercise formative justice in their lives?

Although some forms of justice appear primarily as collective concerns, all problems of justice have both personal and collective manifestations. Paradigmatically, distributive justice is a collective problem, deciding how goods and privileges will be distributed among the members of a community. But distributive justice operates on the personal level too, evident whenever a person has to budget her money for desired products and services. Who has not regretted having skimped on important things while splurging on what later seemed frivolous and inessential? Likewise, retributive justice comes into action at the personal level whenever one wants to get back at another for some slight or injury, or when one feels guilt, regret, or shame over something one has done. Even social justice becomes personal as one gets angry at a superior mistreating a subordinate or as a student feels conflicted wondering whether to finish his homework or to practice with the team.

With formative justice, a person is highly aware of its individual aspect whenever she confronts lots of possibilities and has to channel attention and effort to a few of them selected from the many. But formative justice has a social side as well, as groups, organizations, and whole polities have to select among possibilities, thereby setting their priorities for effort and action. In 1780, writing from Paris to his wife, John Adams expressed the juncture of the social and the individual imperative, describing formative justice for the new nation as a personal duty:

> It is not indeed the fine arts which our country requires; the useful, the mechanic arts, are those which we have occasion for in a young country.... I could fill volumes with descriptions of temples and palaces, paintings, sculptures, tapestry, porcelain...; but I could not do this without neglecting my duty. The science of government, it is my duty to study, more than all other sciences; the arts of legislation and administration and negotiation, ought to take place of, indeed to exclude, in a manner, all other arts. I must study politics and war that my sons may have liberty to study mathematics and philosophy. My sons ought to study mathematics and philosophy, geography, natural history and naval architecture, navigation, commerce and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry and porcelain. (1841, pp. 67–68)

The exercise of formative justice lays out serious duties for both the person and the public.

Long before, with the *Republic,* Plato achieved the first great examination of formative justice, speaking of it simply as the imperative of living life justly, asking whether living justly would bring fulfillment better than living unjustly. He set up his discussion to explore the interplay between the way persons controlled their own self-formation and the way groups sought to aggregate formative effort to bring shared desires, beliefs, and purposes to fruition. What living life justly entailed of the person and why that was the life most worth living would become clearer by forming justice in a carefully constructed hypothetical city.

Let us grant that Plato's language, however artful, was a very early effort to analyze what we are calling formative justice.[21] In doing so, parts of his text can genuinely confuse and alarm literal-minded readers. But a productive interpretation shows him trying to speak about human capabilities in persons and in groups, about how persons and groups developed their unique capacities within the domain of each capability, and about how persons and groups could and should put their developing capacities to effective use. In his Myth of the Metals, Plato was forming

an idea of aptitudes—each person has a unique mix of them, but no one knows what that is until the person has completed a full course of developing all her possibilities.[22]

Plato used his idea of aptitudes, which were cloaked in a veil of ignorance, as the reason why each man and woman[23] should strive to develop their capabilities as fully as possible with the full support of the whole community. Neither the infant, nor anyone around him, knows what his capacities, fully developed, will be. To reveal them, the infant must develop his capabilities, and people around him should help as fully as possible: here is the rationale, both prudential and ethical, for fully developing the potentialities of each and every person. Plato recognized that persons and groups had aptitudes, but neither the person nor their parents, nor anyone else, knew what those were, for they could only be disclosed and developed through extended education and experience. Indeed, the veil hiding capabilities from view, despite the promise by modern testing services to peek beneath it with prurient interest, is really opaque and true to life: to know what persons can be, they must form their capacities as fully as they can.[24] They guide these efforts, explicitly or implicitly, through the pursuit of formative justice.

Aristotle followed and in his *Politics* he held the *polis* existed so that people could together pursue the *good* life. Through the polity, people defined their common purposes, the good life as they saw it, and they developed their capacities for pursuing their purposes together. This view of politics was one in which formative potentialities of human life were central, but elsewhere in the *Politics* and in his *Nicomachean Ethics*, Aristotle singled out the problem of distributive justice as a special form of justice, both distinct and important.[25] But as a pressing matter, justice—formative or distributive—lost importance as imperial majesty cast the dilemmas of self-governance into its shadow. Aristotle's concern for distributive justice did not fully gain historical consequence until relatively recently, when political economy made producing and consuming the core function of modern polities.

Given the greater scale of modern polities, the idea of politics as the shared pursuit of the good life became harder to fathom, or more precisely, people spontaneously defined material abundance as the good life and began to compete over how to share the common product. They brought interest group politics to the fore, redefining politics. Aristotle gave way to Smith and Marx as politics came to be understood, not as a shared pursuit of the good life, but as a competition over "who gets what, when, how," as Harold Lasswell put it in an influential formulation (1936/1958). In diverse ways, modern political economy made contending ideas of distributive justice central in both political theory and practice. Consequently,

the Platonic conception of justice, what we here call formative justice, has come to be largely ignored.[26] To renew attention to formative justice, we should distinguish as clearly as we can between the two types of justice, finding an example where distributive justice and formative justice are in close proximity although clearly distinct.

For that purpose, a trivial but widely documented matter—the doings of professional sport—can be helpful. Commentators and fans extensively follow both the games themselves and team activities leading up to the games. In doing so, they tacitly use basic concepts about both distributive and formative justice in their analyses. For instance, with football, be it global or American, analysts draw on principles of distributive justice in discussing how well the front office uses the financial resources at its disposal to field an excellent team. In contrast, in explaining how coaches and players try to improve their level of performance on the field and prepare for upcoming games, they use principles of formative justice.

Consider these matters from within the tiny universe of a team, as if it were a microcosm isolated from the world around it. The front office metes out distributive justice as best it can, using largely meritocratic theories of distributive justice to negotiate salaries and other terms of player contracts. We will not dwell on the justice of those salaries compared to mine and yours, for that is a larger, more comprehensive sphere of distributive justice, or lack of it. But simply in the tiny world of the team, officials apply distributive justice to set and justify differentials in compensation.

Player contracts reflect judgments about the market, putative skill, star drawing-power, and other signs of worth. Some players command millions and others make the minimum, merely several hundred thousand. If the front office mismanages the valuation of worth and the distribution of resources, with too much here leaving too little there, jealousies and resentments wrack the team and its group of players falls short on talent, leading fans to rail at the front office, or far worse, to demand less than the full supply of tickets. If the distribution is astute, the team, its officials, its players, and its fans may happily thrive. But will they do so? That question leads to activities guided by formative justice.

By itself, an assemblage of high potential, a roster of richly remunerated players, may achieve consistent success—damn those Yankees—but high remuneration does not guarantee it. Team members, working with a coaching staff, use principles of formative justice to help each player reach his full potential and to integrate them all into a resourceful, winning team, one with well-conditioned skill, committed drive, and astute strategy. The Platonic components—strength, spirit, and reason—are all in play.

Formative justice guides practices and preparations. Trainers and coaches help each player get into optimum condition for the role each

will perform. With discipline, swagger, and guile, the coaches work with players to build the determination and élan of the group so that each member can perform with full intensity. And coaches and players reason: they study and scheme, prepare and practice, so that the team as a whole and each constituent player masters an astute game plan. It matches the vulnerabilities and strengths of the opponent and the capacities of the team, assesses the emotional sensibilities and dispositions on both sides, and anticipates the opponent's probable strategies and possible ways to counter them. Finally, formative justice culminates in putting together all these preparations, each in its proper measure, so that on the day of the crucial game, the whole team is strong, intense, and shrewd together, winning in a commanding performance. Here we see the classic components of formative justice, direct from Plato—appetitive drive, honor, and reason—each working with the others, keeping to its proper business, integrated in pursuit of the good: weekly wins leading to triumph on Super Bowl Sunday.

All forms of justice—distributive, retributive, social, formative—resolve into component parts, each with a distinctive character. For instance, distributive justice has several parts—goods and benefits, wants and needs, and a way to allocate the former in some correlation to the latter, which the allocating agents judge to be right or equitable and use as a criterion of distribution. Thus, the results of distributive justice will vary according to the concept of equity people apply, but all are instances of distributive justice, ordering the distribution by satisfying abundant wants with scarce goods according to a specific idea of equity.

Formative justice is not a better way to take care of distributive justice: it is a different, distinct form of justice, a considerably more comprehensive one. Like other forms of justice, it also has several component parts, which the acting agent deploys according to a different principle for specifying its *telos*. Plato developed his theory of formative justice, simply as justice in general, because the problematic of formative justice arose with every intention. And it still does. Formative justice pertains, not to intentionality in special situations, but to all purposeful activity. The intentional agent always faces three basic questions:

- *The intellectual question*: Will carrying out the purpose lead to the results that the agent really seeks? This is the intellectual question, addressed by rational judgments about the purpose. The agent develops a sense of who he is, what he really values, often a sense of mission or vocation.
- *The emotional question*: How should the agent modulate the effort he devotes to each purpose relative to the sum of his other intentions?

This is the volitional question, addressed by emotional judgments about purposes.[27] The agent needs to shape his disposition and emotional character, his preferences and aversions, his interests and the flux of his attention, and in doing so other persons and the public ethos can help or hinder greatly.

- *The material question*: Can the agent marshal and exert the strength and capacity requisite to achieve the purpose? This is the developmental question, nurturing skills and capabilities through judgments of potential. The agent works to build and maintain capacities—strength, skill, knowledge, experience—significant for pursuing his purposes while leaving other capacities relatively undeveloped.

Intentionality suffuses our lives and each person and group continually copes with these three questions inherent in all intentionality. Asserted, public, objective-sounding answers to these questions—*A Nation at Risk* (National Commission on Excellence in Education, 1983)—at best simply state the lived answers second-hand, and the assertions can be proclaimed in bad faith. Existential answers to these three questions take place, not in words, but in actions. As people respond to them actively, on large matters and small, they form their lives through an ever-turning kaleidoscope of enacted purpose. Only in reflection do people experience these as objective questions, and in reflection the questions do not query matters of fact and they do not yield conclusive, verifiable answers. They are existential questions, lodged in the living present: people must determine their answers to them in the midst of the immediate indeterminacies that they face. They live the questions and suffer the consequences.[28]

John Adams lived the question, not by asserting his duty to his wife, but in his experiencing that it was what he *must* do. People deal with existential questions, ones posed and answered in real time, by using inner senses. An inner sense can be immediate and even subliminal. Take for example a person's sense of balance, more precisely her ability to sense her imbalance. It does not allow her to assume a pose in which she is in perfect, static balance. Rather it alerts her to imbalances. For instance, if she tries to stand on one foot, sensing imbalances allows her with small motions to move counter to the imbalance, over time approximating stability by hovering around some hypothetical point of balance.

An inner sense of *fulfillment*, akin to a sense of balance, allows a person to manage the three existential questions of formative life by sensing how apparent fulfillments are less than full. Doing so gives a three-dimensional sense—rational, emotional, developmental—of how we are lacking fulfillment, allowing us to sense when efforts are misdirected, excessive or inadequate, and beyond our means. Aware of what is lacking, we can try to

correct mistaken purposes, disproportional motives, and inadequate or undeveloped capacities. These efforts to fill in, to mind the gaps, to compensate for the palpable lack of fulfillment, shape a person's self-formation. This inner sense of how we can move in the direction of fulfillment with respect to purpose, will, and capacity does not induce complacent satisfaction. Quite the contrary: it alerts us to what we lack and orients our further effort at fulfilling self-formation.

People quite spontaneously think a lot about formative justice. Alone and in conversation, people reason, personally and collectively, about whether their ostensible purposes will really yield what they want and aspire to. They are also prone to consider their volitions, how they are correlating their effort and their purpose, perhaps recognizing the futility of expecting good outcomes without emotionally engaging in the effort to bring them about. And finally, throughout their lives, people strive, consciously and unconsciously, to develop the capacities through which they can realize their purposes—talking to others, reading, studying, observing, thinking, planning, and practicing. These engagements with formative justice are evident in colloquial speech. Purpose: the callow youth will ask a teacher—Am I on the right track? Motivation: a friend will confront a chronic slacker and ask—Who are you kidding? Capacity: an observer shakes his head at the grandiose fool with big plans and little ability—What an ass!

Assessing purpose, directing volition, and building capacities are so fundamental in living our lives that we continually engage in them rather subconsciously. But is that spontaneous pursuit of formative justice sufficient? Our concerns for formative justice may be continuous, but perhaps too diffuse. Let us ask whether ideas about formative justice have a sufficient, appropriate role in public policy formation and actual practice in major concerns of life. In posing this question, we are recognizing the reflexive character of formative justice. It is reflexive because we use it to apply it to ourselves, to consider whether we are conducting our lives in ways that measure up to formative justice. In doing so, we attend to formative justice not as an intellectual innovation, taking up something new, but as a core element of life, asking whether we have perhaps become somewhat inattentive to it, confused about the role it can and should play in our lives. Here we can do that only suggestively, for something reflexive and recursive needs to go on pervasively and continually. But we can here start, and conclude, by looking at how the concept of formative justice might improve both policy and practice in the domain of formal education.

FORMATIVE JUSTICE AND EDUCATIONAL POLICY AND PRACTICE

Affluent consumer economies deal primarily with what are "formative goods"—products and services that on the one hand are distributed as personal or public goods and on the other are used as resources in the formative activities that people engage in. The most obvious formative goods are education, medicine, and other human services. People value many consumer products as formative goods as well because we can use them in giving shape to the lives we wish to lead—cars for transportation, phones for interpersonal communication, computers for managing information, rent and mortgages for housing, durables for keeping house, and all sorts of goods with which to make and do things. With formative goods, people can primarily value getting and having them, seeing them as desired goods, like a piece of jewelry (exchange value), or they can concentrate on using them as formative resources, like a hammer or broom, in living their lives (use value).

Almost everything has this dual quality, partly a distributable good and partly a formative resource. How we weight the two qualities in any matter influences how we tend to think about it. If a person thinks of something primarily as a distributable good, she will be concerned primarily with whether and how to acquire it. If, however, she thinks of it primarily as a formative resource, she will concentrate on its potential uses and the value that it may or may not have in her prospective experience. Curiously, in modern life, especially in the United States, a great deal of concern for formal education, a highly formative, formative good, nevertheless treats it primarily as a distributable good, with lots of attention to who gets it, in what form, and at what cost.

For complicated reasons, distributive justice has become central to public conflicts over access to educational opportunities. Education has become a substantial expense, both private and public. Many people who do not or no longer directly benefit from the public expenditures for schools feel they have a strong interest in holding them down. Provisions for mobilizing public resources have developed over a long time in opportunistic, haphazard ways that have resulted in many inequities respecting both burdens and benefits, occasioning much agitation and litigation. The costs for private education have risen rapidly, sharpening competition for public and philanthropic support. The efficacy of educational expenditures, both public and private, has come under increasing criticism. New providers of educational services, promising higher benefits at lower costs, have begun to compete with traditional educational institutions. Courts have tended to declare a sound, basic education to be a right of every child, but legislatures must allocate the

resources to implement the right. And beyond the sound and basic education, people allocate access to further education using meritocratic conceptions of equity, which correlate very poorly with the *de facto* distribution of means in contemporary plutocracies.

It's a muddle. Who gets access to what education will long remain a muddle fraught with issues of distributive justice. Those realities notwithstanding, reflecting on formative justice with respect to the provision of educational opportunities can help cut through the muddle, at least conceptually. Thinking about formative justice will not lead to a criterion of equity with which to distribute educational opportunities with less contention. Distributive justice and formative justice are different concerns that both apply to formative goods. But considering purpose, motivation, and capacities through formative justice can lead people to form new intentions leading to better results. People can conclude that their formative interests outweigh their distributive interests. In lieu of full consideration, let us here sketch how more attention to the formative dimension of education, relative to the distributive, might alter how we think about key policy issues.

Conceptions of distributive justice have come to rationalize access to education, health care, and a range of public services, with costs and benefits allocated according to a conception of equity. Public policies have become very contentious in heterogeneous polities. With most people committed to a market economy, strong property rights, and the practice of interest group politics, criteria of equity often do not yield an effective consensus about how to develop and distribute formative goods. The distribution of formative goods appears to be increasingly stymied in a zero-sum conflict between adherents of conflicting conceptions of equity. Historical rigidities occur as the divergent conceptions of equity generate countervailing rationales: lowering the tax burden versus providing assistance to the aged or impoverished, privatization versus public schooling, meritocracy versus affirmative action, and so on. Groups lock horns, like two mountain goats, imposing immobility on one another. Experts disagree; courts generate conflicting precedents; a common purpose in providing educational opportunity and an agenda for the collective betterment of life grinds to a halt.

Greater attention to principles of formative justice in these deliberations might lead to a more effective consensus about the support of education and human services. Disagreements about better and worse policies would certainly still occur, but they would be far less likely to be zero-sum disagreements. On formative grounds, the question of who gets what formative goods ceases to be a matter of equity and becomes a more prudential matter in which it may not be as hard to see that all members

of a community have a common interest in developing the capacities of everyone. Formative goods originally became matters of public policy not because they allocated goods as rights or entitlements but because they were formative concerns of significance to the whole polity.

John Adams wrote to his wife about what he must study and devote his efforts to as a duty, a formative concern he felt as someone committed to the young country. Modern states instituted compulsory schooling for formative, not distributive reasons. Even special programs such as Head Start exist primarily to provide impoverished children with early educative opportunities aimed to enable them to benefit more fully from their later schooling. It is less an entitlement of a special group and more an effort to develop capacities of value to the whole society that will otherwise be underdeveloped. Education is not simply a public good to be distributed as a matter of equity. It is a formative opportunity and responsibility of the polity undertaken by the polity for the good of the polity.

Putting the matter on a formative basis in one sense seems to diminish it, buffering it from high-minded arguments of equity. Formative justice largely calls for a special type of utilitarian reasoning, not to implement the utility but to define and form it. Thomas Jefferson, among many others, explained it well:

> by far the most important bill in our whole code is that for the diffusion of knowledge among the people. No other sure foundation can be devised for the preservation of freedom, and happiness.... Preach, my dear Sir, a crusade against ignorance; establish and improve the law for educating the common people. Let our countrymen know that the people alone can protect us against these evils ["ignorance, superstition, poverty and oppression of body and mind in every form"], and that the tax which will be paid for this purpose is not more than the thousandth part of what will be paid to kings, priests and nobles who will rise up among us if we leave the people in ignorance. (2008–2016)[29]

Somehow the very practical, formative mission of education for all has become obscure. Now we increasingly allocate access to instruction on distributive grounds and deliberate about the equity of different distributions, a deep confusion of controlling principles.[30]

Unfortunately, it is easy to confuse the rationale for modern systems of instruction with meritocratic conceptions of equity. There is a subtle distinction at stake, however. Young persons do progress within the system of instruction, and then exit from it, on poorly executed meritocratic criteria, in theory advancing to the higher levels on the basis of demonstrated achievement. But if we look more closely at Jeffersonian or

Platonic principles of education for all, instruction beyond the elementary level was neither a merited reward nor an earned privilege. Universal schooling, feeding into a ladder of more advanced instruction, aimed to correlate educational opportunity with real, actual abilities, not as a due reward, earned by the recipient, but as a formative utility supported by the community. It aimed to enable people to adapt their education to their aptitude, which in all cases was radically unknown and could be progressively disclosed only through formative, educational experience. Ostensible achievement, apparent merit, was not the criterion of advancement, but rather informed judgments by those involved, both the student and the teacher, of prospective capacity and aptitude. Skewed meritocracies, thrusting the meretricious into callings for which they had no real aptitude, have long created a doleful lineage, from long before Alcibiades to long after the smartest guys in the room.

Historically, the original impetus for providing all sorts of common, shared goods has originated in the pursuit of formative justice, not distributive justice. People join together to institute good sewage systems benefitting everyone not because it is equitable that all should benefit, but because it serves the formative interests of all by reducing the danger of life-destroying contagions. Even something like affirmative action policies, often justified as equitable recompense for past injustices, can in some ways be better grounded as policies of formative justice, more fully developing human capacities that have been unduly stunted through past neglect, repression, and abuse, to the direct benefit of many and the indirect benefit of all. Polities do not flourish and underwrite their fulfillment by stunting the talents distributed among their members. There are powerful formative arguments for all sorts of matters about which it is hard to build a consensus as matters of equity—rights of women and minorities, open access to information, investment in effective infrastructure, environmental protection and the conservation of resources, even national defense. Why live in a polity that refrains from fully developing and caring for the human capabilities of its members?

Some people respond that issues of distributive justice are fundamental and principles of formative justice should apply only insofar as they do not contravene matters of equity. A powerful version of this view holds that the polity exists for the protection of property and any action in the name of formative justice that limits the equity of the property holder contravenes the just compact at the foundation of the polity. It is interesting to examine this reasoning in the light of formative justice. Markets for the exchange of property may often serve as effective means for allocating resources, but to think that distributive justice, preempting formative justice, can privilege markets and private property as matters of equity is

highly dubious. Formative labor was integral to the definition of property in the liberal theory of the state:

> Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. (Locke, *Second Treatise of Government*, chap. 5, sec. 27)

The liberal theory of the state recognized that nature belonged to all in common and property arose, explicitly exempting it from primordial rights, through the formative effort with which persons made it useful for their purposes. The raw stuff of nature, common to all, became the property of he who formed it with his improving labor. In doing so, persons also changed and developed their own faculties through their labor, forming themselves and the civilized communities in which they lived.

By equity alone, the natural order for Locke was a vast unimproved commons to which each person had an equal right. That primordial commons was what Locke called "the waste," the wilderness of nature. As he saw it, people formed themselves into members of civil society using the formative power of human labor to transform the common waste into "property," into the farms, cities, institutions, and laws of civilized polities. Improvements by and for all, like the law itself, are as much a part of forming the developed human world as digging a drainage ditch or knitting a sweater. The state exists for the protection of property, the formative fruit of human labor, and that protection includes promoting the formative capacities of people as they carry on with their formative work in the polity.[31]

In its fullness, our human world—the world of culture, art, economics, politics, technology, religion, society, communication, cities and towns—is a world of, for, and by human self-formation. Public life is responsible to that endeavor and the articulation of public purposes should examine vigorously whether and how it will fulfill that responsibility.

- *The intellectual question*: Will specific policies and purposes under consideration really advance the goals they propose to serve and are those advances really what we want to contribute to the patrimony of human meaning and value?
- *The emotional question*: What will motivate members of the polity to embrace the policies and purposes under consideration? What value and meaning will these goals have for the whole polity and for

those who will need to make tangible sacrifices, or forego benefits that others may enjoy, in pursuing the proposed courses of action? Why should the purpose become a *telos* of public volition?

- *The material question*: What capacities for planning and action need to be developed and deployed in order to carry out the policies and purposes? Are they feasible? How will marshaling these capacities affect other capacities important for the conduct of public life?

Such thoughtful examination of such questions is not absent from public discussion, but the inquiry is too often drowned out by simplistic advocacy, for and against. The questions at stake in formative justice require careful, informed judgment. Fulfillment depends on achieving such deliberation in free, self-governing polities—local, regional, national, and global.

Most public goods are formative goods and it makes sense to justify provision for them in large part through the principles of formative justice, not distributive justice. By treating them simply as matters of equity, people lose sight of their own essential purposes and the purposes of their formative goods. By reinvigorating the formative arguments for ensuring that all receive an optimal education, for investing in the health, vigor, and creativity of persons and the public, and for promoting the advancement of knowledge and the arts, people will strengthen their sense of purpose, their motivations, and their capacities. Active consideration of formative justice in our public life can revitalize our shared, common life. If a polity is an association for the pursuit of the *good* life, it has to go beyond the distribution of given goods to the active formation of goods of all types, to work out and strive to implement their purposeful future. That is the mission of formative justice in public life.

These considerations of formative justice deserve to be taken one step further: can full attention to formative justice strengthen the shared commitment to a democratic practice throughout the conduct of life? No polity has achieved the full historical development of democratic self-governance. Democracy in cultural matters has not been fully understood and realized, and meaningful democratic participation in current polities is very limited. Both cultural democracy and participatory democracy have been hovering on the horizon of shared aspiration, but no polity has really succeeded in giving either concept clear substantive meaning. Can the concept of formative justice help peoples do so?

So far, the more democratic societies have instituted what might be called *supply-side democracy*: we, the elites, give you, the people, what we think you need and want and you get to vote for or against it. In supply-side democracy, programs and policies tend to be highly behavioral,

paternalistic. Both public and private enterprises provide many goods and services by identifying the demand or need and satisfying it directly as an end result. Distribution and access become desiderata. Sales and attendance get counted, and their totals are what count: whether those who buy the bestseller actually read it matters little. In a supply-side culture, clients need to exert little agency beyond expressing consent by paying taxes or meeting a market price. We tend to look for cultural democracy and participatory democracy on the side of supply, as requiring more democracy in supplying culture and more direct participation in making decisions in democratic governance. Could the further path to democratic development instead come through accentuating the agency exercised on the side of demand, of reception?

People pay little attention currently to the role the recipients of important activities can play in them. For instance, in thinking about formal education, we pay extensive attention to the agency of schools and teachers, and some to parents, in the process. We pay almost none to the agency of the children in their own education. We speak habitually of children receiving education. Our understanding of children in instructional situations is compulsively behavioral, asking how the child responds to this or that stimuli, not how the child tries to control both herself and her circumstances in various pedagogical situations. We equate education with "teaching and learning," as if pupils and students had nothing to contribute aside from passively soaking up what teachers impart. What is the child doing in pursuit of her self-formation and what can teachers and parents do to help the child manage her efforts with optimal effect?

Attending to formative justice requires recognizing the autonomous self—*auto* (self) plus *nomos* (norm), or the self-norming agent. The person engages in forming and maintaining herself. Groups, large and small, also form and maintain themselves through autonomous efforts, which are devilishly complicated to chart, as they aggregate the many-sided interactions among the persons involved. Persons or groups, although self-norming agents, clearly respond to external influence by other agents and by circumstance. Force, and all manner of conditions, may compel particular behaviors by autonomous agents. But in acquiescing, the constrained agent may act in a way very different from the apparent behavior. Truly formative influence affects action, not merely behavior, and to affect action, it must recognize and respect the agent's autonomy. Legitimate influence, influence that the agent incorporates into his efforts at self-maintenance and self-formation, first secures assent, then suggests direction and means.

Looked at from the perspective of formative justice, too much educative activity fails to recognize and respect the autonomy of the recipient: "Do

this; learn that; it's good for you, I know." Too much educative work starts from the premise that the pupil or student is plastic, not yet autonomous; it asserts that with paternal care it can and should mold the latent person, which still only responds to the force of external stimuli, into a self-governing adult. In contrast, genuine pedagogic influence can do great good, but it must start with recognition that its recipient, however immature, is a fully autonomous agent, a person with a will, an agency, fields of perception and action in and through which she lives. The will may not be free, in the sense of being unconstrained; but it is autonomous in the sense of being self-norming. All life has an autonomous will; the educator must work with and through it. That is what Rousseau meant by education in accord with nature. The pupil is not plastic; mere stuff squeezed into this or that mold. Pedagogic influence must start from full, reciprocal recognition between instructor and student, a recognition through which the recipient of influence assents to it, transforms it, makes it her own as part of her ongoing self-formation.[32]

Real assent does not come lightly and those who seek to wield pedagogic influence easily, short-circuiting the student's assent, deceive themselves about it. With unctuous art, stern force, or patient repetition the influencer can compel behaviors in others that make it appear that assent has been won and the outcome mastered. The child seems happy, disciplined, the lesson learned. But what the recipient learns from unctuous art is naïve dependence, from stern force, sullen servility, or from patient repetition, anomic conformism. The vast majority of formal educative effort is deeply behavioral, looking only at effects, as if schooling is a productive process working on dead matter. So too, much informal communication in the public sphere and in intimate space, ignores the inner life of the other and aims instead to compel a favored outcome. Talking points and tendentious constructions, not to mention outright falsehoods, do not convince autonomous persons; all these manipulations deny the humanity, the living integrity of those from whom they force this effect or that behavior.

Such degradation of humanity, such denial of life, pervades education, entertainment, commerce, and public life. The great difficulty arises because the constant denials of autonomous agency take place in good faith, through agents who are autonomous themselves. Hence, to adapt our educative efforts to the pursuit of formative justice, we need to be careful to respect its principles. It is not sufficient to compel different behaviors on the part of people engaging in miseducation through formal and informal institutions. Righting the situation is not an issue of stopping certain behaviors, but one of engendering a different understanding of the situation in which educative efforts are taking place.

Let pupils and students query themselves about formative justice in their lives. Help them ask them what their purposes are and whether achieving them will bring them what they really want. Let them say what moves them; what they hope for and want to try; what angers and gives them joy. Find out, at this age and that, what abilities they seek; what skills they think they need; what they worry over yet want, seeing a challenge difficult yet important. Let them see you do all this as well, forming yourself as an active agent, alive to the uncertainties of life. Model to others of every age the formative life. Show to yourself and to the world, how, with Rilke,

> to be patient toward all that is unsolved in your heart and to try to love the questions themselves like locked rooms and like books that are written in a very foreign tongue. Do not now seek the answers, which cannot be given you because you would not be able to live them. And the point is, to live everything. Live the questions now. Perhaps you will then gradually, without noticing it, live along some distant day into the answer. (1954, p. 35)

Perhaps in some distant day we can live into a different understanding, one achieved through an extensive, many-sided examination of formative justice in our lives, personal and public. Many need to engage in living the questions, leading into the answers in a future still to come; now living the questions, surfacing difficulties, exploring possibilities, inspiring activity. Towards that end, here are several questions worth our living.

- Can we back away from our current policy conflicts, which seem locked in reciprocal negation, and transcend them by developing a new understanding, one that will lead us to act with a renewed sense of purpose?
- Can we broaden and diversify the controlling purposes of education and more fully engage the whole society in the effort to fulfill them?
- Can we encourage young people to take a critical, active interest in questioning their purposes, shaping their motivations, and developing their capacities, without our seeming to blame the victim?
- Can educational programs for all, based on the assent of the students in them, prove effective?

NOTES

1. For Frank A. Moretti, who lived the questions and exemplified formative justice. I have been reflecting continuously throughout my career on *formative justice.* On reading Plato's *Republic* closely in graduate school, I became interested in his theory of justice as a basis for thinking about education. In 1999 in *The Educators Manifesto,* one of my early attempts at online publication, I tried to update Plato's concept for the contemporary world, contrasting it to distributive justice and calling it "regulative justice" (McClintock, 1999, 108–122). I reflected further on the concept, calling it "formative justice," in *Homeless in the House of Intellect: Formative Justice and Education as an Academic Study* (McClintock, 2005, pp. 72–105). Most recently, in the last two chapters of *Enough: A Pedagogic Speculation* (McClintock, 2012), I again wrote about formative justice, and the related concept of "fulfillment." The present essay is an instance of work in progress, and subsequent iterations of it will be accessible at *http://www.educationalthought.org/files/formative-justice-mcclintock.pdf.*

John Dewey often wrote about the reconstruction of experience; an endeavor I embrace in this essay. To reconstruct experience, we must revise important concepts and use them to recast familiar issues and concerns. The text presents a reconstruction of the problem of justice in contemporary life. These notes introduce the rationale for elements of this reconstruction and indicate key bibliographical resources relevant to it, not to claim the cited work as authority for my views, but to show suggestively the sorts of heuristics that have helped to form them.

2. The question asks: why and how did a concept of justice come into existence? Hence the essay starts prior to the literature, historical or contemporary, on the topic of justice. Of course, I have read a portion of that huge literature and learned much from it, but I try to start from a position prior to that literature.

At the more general level, work such as Donald, 2001 helps greatly to reflect on the historical emergence of powerful concepts such as justice (see also books by William H. Calvin and Ian Tattersall). More specifically, I have found studies of early Greek concept formation very helpful, especially Snell, 1946/1960.

3. Persons and polities, persons and the public, the person, the polity, the collectivity, groups, etc.: I use these, rather than the more common *individual* and *society.* I think that "individual" and "society" and their variants denote abstract constructions that lack living referents. The referents of "persons" and "polities" and their variants are more concrete, leading flesh and blood lives. A person is historical, an "I" and "her circumstances." So too, polities are historical; they exercise an imperfect, contingent agency under impinging constraints and conditions. The status of a polity, a public, a group, or a people is more abstract than that of a person, but these terms usually refer to groups of persons who think of themselves living together as a "we" with "our circumstances," having to concert common purposes and exert actions to achieve them. "Society" in an abstract, general sense is more static, defined not by purpose and action, but by an inventory of characteristics.

Individuals are like Barbie dolls, decked out in various outfits, their characteristics classified and counted by census takers and other compilers of social data,

all assembled into societies, each with its components and regularities well documented. In contrast, persons and polities live and suffer historical experience. My usage tries to align strongly with Max Weber and to distance my ideas from the assumptions of Emile Durkheim. Persons and polities are deeply entwined in social action as Weber analyzed it in *Economy and Society*, Part I: Conceptual Exposition, especially the initial section on "Basic Sociological Terms" (1968, pp. 3–307, esp. 3–62). Weberian social thought aims to develop methods of inquiry that interpret how persons lead "sentient, choice-filled lives," and then explain how they concert themselves in historical life into active groupings.

Note here too that *person* takes a feminine pronoun. A reader has complained that my use of pronouns does not conform to current practice. I think lots of "his and her" and the like make for awkward and redundant prose. In the languages to which English links historically, nouns have grammatical gender and the gender of pronouns agrees with the gender of its antecedent noun. That's a good system for deciding on what pronouns to use, which has the added benefit of sometimes making identification of a confusing antecedent clearer. It would sound too weird to write English as if it were fully gendered grammatically. But in common language we still do use some grammatical gendering, more or less comfortably referring to the book of a child as "its book," or saying "she's a fast ship," but "it's a slow boat." I try to stick to the following usage: when a noun refers to a gendered agent of known gender, the pronoun should agree with the known gender; when the noun refers to an agent of unknown gender, the pronoun should agree with the latent grammatical gender of the noun—i.e., "person" = "*la personne*," hence "she," "her," etc.; "youth," = "*die Jugend*," hence "she," "her," etc.; "agent," = "*l'agente*," (m.), hence, "he," "his," etc.

4. In this essay, and more generally, I attribute a strong, ontological status to life—I live, therefore I and my circumstances exist. *La vida, vivir,* life, to live, living—here is the ontological ground for José Ortega y Gasset, whose life and work I studied closely for 10 years, culminating in my book *Man and his Circumstances: Ortega as Educator* (McClintock, 1971). The *cogito* yields, not being, so dead and static, but living—I think, therefore I live, and I act, and with body and mind I struggle unto death with the world of my life.

My life, my I and my circumstances, is but one among many lives, each with its circumstances. All these circumstances together constitute the world taking place in these lives. Hence, let us view *life* itself as a basic constituent of the universe, emerging perhaps from some primordial indeterminacy, immanent in the chaos, otherwise inert. *Life*, through its multitudinous instances, works in the midst of natural forces as an agency helping to determine the not-yet-determined in the temporal dimension of the present. Determinism reigns over things past, but in the present the determining agency of life works along with other forces active in its circumstances to actualize the determinate past. Were that not so, living agents, especially persons and peoples, would be like the pebble, inert and determined, feckless and featureless. Living agents are agents participating through their actions in the vast deterministic work of the universe.

Life does not merely exist in an objective universe, for the universe, however it may present itself for perception and action, gets caught up in life, as the locus of life's agency, as its circumstance, as that which stands around it. The newborn does not find itself there, a tiny thing in the great, well-ordered universe; in its nascent life, the newborn encounters the world, a confusing, inchoate swirl, a meaningless chaos that the new life must form into its home. The newborn must make sense of himself in the chaos, learning to live his life by controlling himself and his circumstances, as best he can, an agent maintaining himself in the chaotic swirl, acting in and on the swirl and thereby contributing his tiny part to its total determination.

5. I distinguish between the comprehensive topic of *control* and the more specific subtopic in sociology of *social control.* Early 20th-century sociologists, starting with Ross, 1906, developed a sophisticated understanding of how techniques of social control developed and maintained systems of order in complex societies and this understanding has been put to powerful use, some constructive, much destructive, during the ensuing decades. *Techniques and examples of social control are not what I refer to as "control."* In this essay, I basically understand *control* as a reflexive verb, usually as an auxiliary to another verb—"I control myself doing something." The need to exercise reflexive self-control was a central concern in classical thought, especially as instantiated in the figure of Socrates and as theorized in the work of Plato and the Stoics. Many moderns have thought deeply about the problem of control, to my mind none more extensively or productively than Jean-Jacques Rousseau. In the 20th century, processes of control, as distinct from social control, became the topic of formal research and theory in biology, cybernetics, and robotics, and through the quirks of youthful experience, I had the good fortune to reflect on the range of it in my first significant publication, "Machines and Vitalists: Reflections on the Ideology of Cybernetics" (McClintock, 1966). A study of lasting significance, Beniger, 1986 is a good place to start an inquiry into the importance of control in the living of life. Unfortunately, Beniger's work was not well understood, primarily because critics confused his understanding of control with the literature on social control, a much more passive process, something done to people rather than something that people do for themselves.

6. I am suggesting a pervasive teleology throughout all of *life*, a teleology governing every instance of life, all living agents. This view is profoundly *unzeitgemässe*, outmoded in scientific circles, but I think arguments against biological teleology are easily met; however, it would be too much of a digression to run through them here. Suffice it here to observe that the claim that all life is self-maintaining would be easily falsified by adducing something that we would all agree on the one hand is alive *and* on the other manifests no self-maintaining behavior. I am not saying that life has a teleological purpose outside of itself; rather life lives teleologically; it maintains itself. Life does not seek to attain a purpose; life lives purposefully. The upshot of life's teleology is that life lives purposefully, but it serves no final purpose or end. Life maintains itself and that is the closest it comes to a final end, simply to maintain itself as itself through all its ends-in-view. Failing to do so is to fail to maintain itself, that is to die, to cease to be alive. Nevertheless, this imperative of self-maintenance leads to a hierarchy of goals of sorts, not to attain the highest good,

the good itself, in Platonic terms, but to not suffer the final harm, the final ending, in a very literal sense—death. All this gives rise to a mind-bogglingly complicated web of vital purposefulness evident in our lives and our circumstances, a vast cosmos of intentionality, but given the scale and scope of life, it would be absurd if the good itself were to turn out to be some simple unity, akin to a mathematical point.

Heraclitus put it well: "The wise is one thing, to be acquainted with true judgment, how all things are steered through all." Current authorities suggest that this fragment: "gives the real motive of Heraclitus' philosophy: not mere curiosity about nature (although this was doubtless present too) but the belief that man's very life is indissolubly bound up with his whole surroundings. Wisdom—and therefore, it might be inferred, satisfactory living—consists in understanding the Logos, the analogous structure or common element of arrangement in things, embodying the μετρου or measure which ensures that change does not produce disconnected, chaotic plurality" (Kirk, Raven, & Schofield, 1983, pp. 202–203).

7. As explained in the next annotation, life is an active agency; its living constitutes a life world where perceiving and acting, where all the activities of life take place. In that realm of living agency, thinking is a form of acting. It constructs the world through an embodied consciousness as the world exists in and for life, in its perceiving and acting. For living humans, these constructions constitute the phenomenal world in its many modes, largely as explained by Immanuel Kant and others, who followed in the tradition of critical philosophizing. In addition to close readings of Kant's three critiques, Hegel's *Phenomenology of Spirit*, a variety of texts by Wilhelm Dilthey, Max Weber's efforts at *Begriffsbildung*, Ortega's writing, and some Simmel, Husserl, and Scheler have been suggestive to me about the formative powers of cognition.

8. Hebb, 1949/2002 opened major advances in understanding learning at the neurological level. All our bodily and mental capabilities undoubtedly have an inborn substratum, which broadly determines their structure and function. However, each living organism activates, develops, and tunes those capabilities, instantiating them as working capacities, by actively shaping them, controlling them, constructing them through their recursive use. I have found papers in Smith and Thelen, 1993 very informative about early childhood cognitive development.

9. Life maintains itself; living that stops self-maintaining dies: then it becomes dead matter. Time as we experience it exists in our lives, as do space and the entire world; time is the recursive immediacy of self-maintaining activity, the fleeting now. For living agents, their activity, their perception and action, take place as the temporality, the now-ness of life—the time phenomenally present for our lives. Within that now, we postulate a *not-yet* comprising innumerable contingent futures, both impending and distant, possibilities which have not been determined, not actually lived. What I will do tomorrow is really a question, now, with endless possible answers: What will I do tomorrow? Time becomes actual in our lives as what is *now*, an immediate present. Future possibilities, which we now postulate in the *not-yet*, funnel towards the present where actualities take place, newly determined in part by the inertia of circumstance and in part by the living agent's controlling effort. *Carpe diem!* Then as living agents, we follow through recalling

an *ever-after*, the past, partly recent and partly ancient, all of it consisting in what has been fixed and determined, gone but for the inertia of circumstances and the fading memories that we now hold of things past. "Real life," actual living, takes place in the immediate where things happen to and through the effortful agent, through his actions, which verbs and adverbs denote. Active persons construct languages, conceptual realms, to anticipate and cogitate. Thought and thinking are not the same: thought is symbolic, consisting in postulated possibilities and preserved memories; thinking is active, immediate, and real. Life maintains itself by thinking and acting in its world.

10. Although so stated this example is somewhat trite, the human costs of someone's failure to do justice to his talent and calling is a great literary theme, at the heart of dramas such as Eugene O'Neill's *Long Day's Journey into Night* (1941).

11. It may be helpful to indicate my usage of three terms that are closely associated in the idea of formative justice developed here: *sense of fulfillment, self-maintenance*, and *self-formation*. By *sense of fulfillment* I refer to an inner sense, often felt beneath the level of conscious awareness and sometimes rising clearly into full awareness, about whether what we are doing is or is not fulfilling. We use this inner sense, much as we use the sense of balance, to steer towards goals that are conducive to self-maintenance. Elsewhere I would like to develop the concept of a sense of fulfillment as I suspect it is complex, perhaps having a specific form relative to a single goal or purpose, and a more complex form relative to multiple goals and the way we prioritize them. Here I will, however, use the concept in a somewhat vague, inclusive sense. *Self-maintenance* works continually as the immanent *telos* in and for all of life, specific living agents and the sum of them, life as a constituent element of the universe. As the immanent *telos* in my living, in your living, in all living, self-maintenance has many sides, continually flexing, requiring the living agent to sense fulfillment dynamically, complexly, and discriminately. In doing so, to err is human, the eventual source of mortality for each living agent. Up until then, the living agent uses its sense of fulfillment to control its norming, its energizing, and its capacitating, integrating it all together in a process we here call formative justice. The cumulative exercising of formative justice yields *self-forming*, an agent's shaping the life it leads, for better and for worse, until its life, its pursuit of self-maintenance, ceases.

12. Classical philology and associated conceptions of hermeneutics concentrate on comprehending ancient texts by interpreting the historical formation and development of the concepts their authors used. As a historian of thought in the present day, I believe it is important to make my view of that process explicit, for the history of philosophic concepts lends itself to consideration in two significantly different ways. For some, the history of philosophy and related concerns studies how timeless, true concepts entered into history in confused and confusing ways, with the subsequent historical effort being one in which thinkers tried to eliminate and correct prior confusions, eventually arriving, at some time in the past or perhaps still in the future, at a proper understanding of philosophic truth. For others, the history of philosophy and related concerns studies more modest developments, but ones no less portentous for historical experience. For them, the

history is one in which different people form concepts with which to think about their experience and to organize their actions in their historical world. It is not a matter of something timeless entering into history but of something timely being invented through history. I think the history of thinking about justice is very much the latter sort of process, not the former. All concepts are historical in a strong sense, having a historical origin, meaning, and span of useful pertinence. This view does not dissolve the problem of truth, but it significantly historicizes it. Doing so puts a premium on several kinds of works pertaining to historical concept formation. One concerns the historical study of that historical process in collaborative efforts such as the magnificent eight-volume *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-socialen Sprache in Deutschland* (Brunner, Conze, & Koselleck, 1972–1997). Parallel efforts in English are associated with the work of Quentin Skinner and J. G. A. Pocock, among others, and accessible surveys of it all are Hampsher-Monk, Tilmans, and Vree, 1998; Koselleck, 2002; and Richter, 1995. Another involves the epistemology of historical reason, for which see the work of Wilhelm Dilthey, for instance his *Introduction to the Human Sciences* (1883/1989) and José Ortega y Gasset, for instance *Una interpretación de la historia universal* (1962).

13. Over the years, the work of Eric A. Havelock has been formative for me. *The Greek Concept of Justice from Its Shadow in Homer to Its Substance in Plato* (1978) is an excellent guide to studying early Greek thinking about justice. I read enthusiastically his *Preface to Plato* (1963) when it was originally published, soon after my first close reading of the *Republic.* His earlier study, *The Liberal Temper in Greek Politics* (1957), is important as well. My feel for the topic has also been deeply influenced by a long fascination with reading and thinking about pre-Socratic speculations, especially the fragments of Heraclitus. Here Guthrie 1962, 1965; Kirk et al., 1983; and Wheelwright, 1964, among others, are very helpful.

14. Part of the greatness of Homer's *Iliad* arose from how clearly the poem presented paradigmatic forms of justice in the various conflicts that drove its action. It started with an example of retributive justice as Apollo sent a plague upon the Greeks, whose leader, Agamemnon, had taken the Trojan daughter of Apollo's priest as his concubine as his share of mounting spoils. It shifted to a vivid conflict over distributive justice as Agamemnon and Achilles clashed about how to revise the distribution of spoils justly, having returned the priest's daughter to the Trojans. The epic then played out around a formative issue, the choice of Achilles—whether to win eternal fame, suffering an early death, or to live a long and comfortable life. In the course of that extended action, diverse scenes involved numerous aspects of early Greek social practice, including a brief but sharp vignette about a conflict of social justice as Odysseus cudgeled Thersites, who had spoken sensibly but out of place. By basing philosophic study on an engagement with the earliest history of our intellectual traditions, one gains a strong appreciation of how reflective thinking has been historically invented by persons trying to clarify the difficult choices embedded for them in human action.

15. Distributive justice, as distinct say from *majesty* in the exercise of authority, seemed to become a more prominent problem in self-governing polities such as the Greek city-states. Self-governing polities, where authority is sanctioned

internally, have a greater stake in maintaining their cohesion than do magisterial polities, where an external, transcendent force appears to sanction authority. From Herodotus on, Greek historians have appreciated cohesion rather than scale as the key to their well-being; the essence of statesmanship in figures such as Solon, and even earlier in Hesiod, was seen as the ability to moderate and back away from the stasis arising when conflicts over distributive justice became too divisive and paralyzing. In their larger history, both Greece and Rome show how a failure to maintain effective internal cohesion can undermine self-governance and replace it with a politics of imperial majesty.

16. See Bushway, Stoll, and Weiman, 2007; Kaiser & Stannow, 2010a, 2010b, 2011; Western, 2006. Lagemann, 2010 gives a sense of what might be with more attention to formative justice as well as retributive justice, as does Smith for England in his series of online articles about teaching prisoners, most recently "In Prison, Education is a Route to Self-Respect" (2013).

17. Retrospectively, after the fact, everything has been determined. At the time of their occurrence, actions by living agents are indeterminate and contingent, and living action has determined much in the determined, retrospective world. All instances of life are self-forming and self-maintaining. Each living organism is a complex, recursive system able to perceive the world around it in some manner and to act in that world in some fashion for the purpose of maintaining its capacity for self-maintenance. The capacity to act from within itself to form and maintain itself is what differentiates life from inert matter. That capacity to determine itself is probably a fundamental property of the universe, an emergent expression of the basic indeterminacy in the elemental constituents of the world. We should think of life, in general, as a totality of recursive actions by self-determining agents. In this sense, life is an emergent property of the universe, a universe that has something indeterminate among its constituent elements.

Life is a protean form of matter and energy, using natural indeterminacy, to exercise self-maintenance through controlled self-determination. This power of self-determination does not mean that a living agent can unilaterally become whatever it seeks to become. It must try to do so; the outcome is uncertain. The self-determining organism must cope with circumstances, which are massive, ineluctable, and uncaring. Hence, self-determination is contingent, mortal, finite; but these limitations allow it to be massively recursive as well. Life can pullulate by means of death, and therein lies the power of life in its entirety to colonize, year by year across eons, the mute circumstances of the universe.

Life in general comprises a vast complexity of recursive instances, each mortal, each able to maintain itself fleetingly. But once life starts as this self-determining, self-maintaining succession of lives, that self-maintenance becomes an endless source of meaning to itself. In its most comprehensive sense, formative justice is the inherent, sovereign virtue, Plato's idea of the good, drawing the great succession of lives into existence within the living realm. Formative justice rules the cosmos—that reconstruction of the chaos called into being by the pageant of self-forming actions in self-maintaining lives.

18. See for instance Slaughter, 2012.

19. Formative justice as developed in this essay is closely allied to "the capability approach," an important body of work on justice led by Amartya Sen and Martha Nussbaum. There are similarities and differences. The obvious similarity is that both concentrate on what people can do in their lives, with a difference of emphasis arising because the capability approach concentrates on *what* people can do while formative justice accentuates *how* people do what they can do. The capability approach pays more attention to social conditions as limiting factors on what people can do, whereas formative justice studies how persons and groups as agents can form themselves and their conditions. There is an obvious difference, for the capability approach is well developed with an enormous bibliography, whereas formative justice is in an initial stage of development with a thin bibliography (compare a Google search on "capability approach" with one on "formative justice"). More substantively, a difference arises because the capability approach traces back more to Aristotle and formative justice derives strongly from Plato. Neither formative justice nor the capability approach aims to delineate a perfectly just society. Instead of doing that, the capability approach aims to establish testable grounds for judging the comparative justice of difference societies by empirically testing the degree to which their members achieve, and have the opportunity to achieve, the set of capabilities that are hallmarks of human realization; see for instance Sen, 2009, pp. 225–327. Formative justice as developed here pertains much more to how persons and polities can use conceptions of formative justice in deliberating about how they will decide on their purposes and try to develop their possibilities. In the capability approach, justice is a normative concept of use in comparative politics. In formative justice, the concept is a regulative principle that people can use in forming and controlling their purposes. For the capability approach, see also Nussbaum, 2006; Nussbaum & Sen, 1993; Sen, 1999.

20. By and large, in this essay I use *capability* in an abstract sense, a "power or ability in general, whether physical or mental" (Garner, 2009, p. 130) and *capacity* as an instance of a capability when a person or group has developed it. The distinction is analogous to that between *concept* and *conception,* the former being the general idea and the latter a particularization of it—the *concept of justice* and *my conception of justice.*

21. Why do we read Plato? The reasons are legion, but for me, I read Plato because I sense that doing so will help me work out what I think about matters of importance to me. Why do I sense that he might be helpful? It is not as a source of ready-made ideas. It is more a sense of uneasiness with presently prevailing views, a feeling that we may be in a cul-de-sac, to which Plato was the entry point. To get out of the cul-de-sac, we have to return to the entrance, asking what led into it and whether there might have been an alternative path, one that Plato did not see, perhaps would not see given the intellectual resources he had at hand. This mode of reading Plato requires that we first try to understand what he said and why he said it with as few anachronisms as possible, and then engage his concerns with anachronistic abandon, projecting back on them all the insights and conceptual resources available to us.

22. See *Republic,* 3, 414b–415d. I interpret the city described in Books 3 and 4 to have been constructed by Plato for the sole purpose of helping him convey his ideas about the human person, precisely the purpose that Socrates assigned to it. I do not think it had any normative political import attached to it. Plato further introduced the Myth of the Metals as a falsehood, a Phoenician tale. As an analogue to the human person, the myth would be introducing a way to speak about different aptitudes and the challenge each person faces of developing the mix of capacities that best suits them.

23. It makes sense, I think, to take Plato seriously when he called for the full participation of women in the education programs he outlined (*Republic,* 451b–457b). In the context of formative justice, the whole community has an interest in the full development of all its members, for it is only through their development that people can know what they are capable of. Plato noted how ignorance of one's capabilities would lead to an inclusive egalitarianism long before John Rawls in his *Theory of Justice* (1999, pp. 118–123). Rawls called on people to act counterfactually, as if they were ignorant of their position in society. Plato's use of a veil of ignorance was far more sensible, for people are ignorant of their potentialities until they develop them, and it remains a very powerful argument for extending full educational opportunity to all.

24. Late bloomers make frequent marks historically, and they usually show up among those who are better off. The die gets cast earlier for the poor, surely a loss for people who would care for formative justice. As the most powerful in a winner-take-all ethos rationalize their greed through fatuous stupidities about incentivizing their effort, they fail to notice how much effort by others they disincentivize.

25. See Aristotle, *Politics*, 1:2, esp. 1252b:27–1253a:2. The *poleis* emerges historically as a group of households passes beyond a condition of subsistence and begins to determine what the *good* life will be, beyond the needs of bare subsistence. Thus politics becomes a formative effort. In *Politics,* 3:9–13, Aristotle discusses distributive justice in relation to oligarchy and democracy and refers back to his *Nicomachean Ethics,* 5:2–3, about distributive justice as one of several forms of partial or particular justice, as distinct from general or complete justice, which is very close to the concept of justice in Plato's *Republic.* Irwin, 1988, pp. 424–438 is very helpful.

26. In a significant way, this statement understates resistance to Plato's conception of justice within liberal political theory in the Anglo-American tradition. In decades after World War II, Plato's thought was actively anathematized by some influential thinkers and widely overinterpreted by others, who publicized a simplistic, rather uninteresting construction of Plato's thought as if that was his obvious meaning. Perhaps the two most influential were Popper, 1950, pp. 9–195; and Russell, 1945, pp. 104–159. Like most grand tours, Russell's was a hurried trip, stopping at each destination, stopping to recount the high points with snark or admiration, according to his taste, in Plato's case, mainly snark. Russell races through his snap judgments, writing as he can so well with a biting wit: "It has always been correct to praise Plato, but not to understand him. This is the common fate of great men. My object is the opposite. I wish to understand him, but to treat him

with as little reverence as if he were a contemporary English or American advocate of totalitarianism." Popper's critique of Plato was considerably more thorough, a text of almost 200 pages with nearly 150 pages of additional notes. It is scholarship to grind an ax, ever ready to take Plato's words at their most literal meaning and granting him no capacity for irony or complexity of thought. Reading Popper along with Cassirer, 1946 is an illuminating way to get some balance. Cassirer wrote roughly at the same time, with parallel concerns, but with a spirit that was far more thoughtful and discriminating. Walter Kaufmann published a devastating critique of Popper's scholarship on Hegel (1959, pp. 88–119). The substantial online article on "Plato's Ethics and Politics in *The Republic*" by Eric Brown in the *Stanford Encyclopedia of Philosophy* (2011) surveys the current state of scholarship on the *Republic* very well and touches on Popper's work briefly while showing how tangential it is to current concerns. There is more to be said, however, for surprisingly, the Princeton University Press is publishing a new edition of Popper's *Open Society* with an introduction by the historian of political thought, Alan Ryan.

27. It is important to avoid reducing the question of formative justice simply to one of clarifying purposes and building capacities, assuming that purpose and capacity are what a person needs to accomplish a sound and feasible purpose. The effort must be invested with an appropriate emotional valence. Paying too little attention to the importance of emotional commitment to purpose leads to the problem of *akrasia*. Elite reformers in education and social policy are often clueless because they are unable to understand how the "helpful" programs they espouse induce emotional depression, resentment, and despair in the recipients of their efforts.

28. My formulation of the three basic questions the intentional agent faces loosely follows Plato's description of the human soul (*Republic*, 435a–441c, 580b–583a), although my language is different, modernizing the basic insight.

29. See also Jefferson to Pierre Samuel du Pont de Nemours, April 24, 1816: "Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day. Altho' I do not, with some enthusiasts, believe that the human condition will ever advance to such a state of perfection as that there shall no longer be pain or vice in the world, yet I believe it susceptible of much improvement, and, most of all, in matters of government and religion; and that the diffusion of knowledge among the people is to be the instrument by which it is to be effected" (1930, p. 186).

30. I risk here seeming to imply that we should think about formative goods only on the basis of formative justice. In preserving balance, we always overcompensate for imbalances, and in thinking about access to education the imbalance towards distributive justice is extreme. Both formative justice and distributive justice are at stake in educational access, but to regain balance, we need now to strongly accentuate formative thinking. I think the proclivity among proponents of "the capability approach" to reason about the distribution of capabilities within and across societies indicates how imbalanced thinking about educational access and achievement has become.

31. As suggested here, I think Locke rationalized private property through formative reasoning, not a theory of distributive justice. I think he exaggerated the scope of private property relative to property held in common. See McClintock, 2012, pp. 83–84n12.

32. Educators are too confident that they know what their students need and lack confidence in the deep self-understanding of their students. Human intentionalities and capacities are incredibly many-sided and they emerge in complex patterns. The educator is most helpful as a sympathetic bystander, ready to offer an honest observation—“I think this” or “It looks to me as if.” Rousseau’s *negative education* is the path to pedagogical wisdom.

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