Formative Justice

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The Reflective Commons

Collaboratory for Liberal Learning
New York, New York

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Please note: We present the text in consecutively numbered paragraphs with no page numbers to facilitate device independent citation.

Remembering Frank

[1:] Following the '68 unrest, academic life at Columbia remained more fluid than usual. Formalities continued as before, but boundaries were looser, topics less predictable, and some grad students were taking unusual paths from one specialty to another, having burnt bridges and challenged ideas about the uses of study.

[2:] Registration that fall, my second year on the faculty, started with two new students seeking orientation. Then someone looking like a burly Allen Ginsberg came in, peered around, and said with a casual cheerfulness, “I hear you like Heraclitus.”

[3:] Although institutional tensions had heightened then, the long post-war expansion of universities was near its peak, meaning resources were still flush and proceduralism wasn't yet binding their use. Hence, it happened that my department had authorized each faculty member to award full funding to a student of his or her choice. And naturally, after conversing a while, I matched my visitor's greeting with something equally unexpected: “Could you use a doctoral fellowship?”

[4:] That conversation began my life-long friendship and collaboration with Frank Moretti. Frank had grown up in West New York, on the Palisades overlooking the Hudson, a few blocks north of where cars circle in and out of the Lincoln Tunnel. He went mostly to Catholic schools, learned Latin very well, expressed a knack for photography, and a kamikaze style in contact sports. By the time he went upstate for college at St. Bonaventura, he had the persona of a North-Jersey ethnic, at once

outgoing, street-smart, and ready to test the boundaries with his own self-set purpose. He did his B.A. in Greek and Latin at Bonnies, and then, despite a turbulent extracurricular reputation, for a year he taught Latin and Roman History there, after which he came to New York to make his way.

[5:] By the time Frank walked into my office, he had completed an M.A. in Latin in Columbia's Classics Department while teaching at St. Peter's Prep, and he had made himself persona non grata at both. He took the fellowship I offered and eventually completed his Ph.D. in history and education, writing a good dissertation on Virgil and Augustus, especially how they adapted the educative power of public funerals in republican Rome to imperial purposes.

[6:] Frank took a long while to complete the dissertation. He fit his scholarship into the full breadth of a creative life. He never let what he did define him; he always turned the different things he did into expressions of his active self-definition.

[7:] What did defining himself mean? Frank did many things very well, teaching with effect, counseling young and old wisely, thinking creatively about history and literature, communicating a sense of independent purpose to large audiences, managing educational programs dynamically, networking to form communities of interest, volunteering to serve many causes, expressing himself artistically with camera and oils, making friends with all sorts of people, traveling widely and reacting strongly to what he witnessed, designing curricular programs with which students could disclose their

capacities in classrooms and online, parenting many children, his own and those of his friends, with care, challenge, and surprise, meeting life through outgoing energy, often despite chronic pain.

[8:] Frank lived with protean energy in a continuous cascade of activity. Yet those who knew him would never identify Frank by what he did, saying that he was a teacher, a counselor, a thinker, a student, an administrator, a volunteer, an educational designer, a parent, or simply a friend. Frank was Frank: he was all these at once and which of them would be foremost, when and why, was rarely predictable.

[9:] This unpredictability had a rhyme and reason. In discussions of identity, Frank always espoused Proteus. Frank was singularly alert to the diversity of possibilities in life. By sensing their multiplicity, he always felt he had open options — if not this, then that. His protean energy made his friendship fulfilling, always a source of novelty, challenge, and self-discovery. It also made him a tough negotiator, for his sense of the resources he could draw on would usually exceed what others would see in a situation. He was not born into sophistication, yet he always knew that there was much he did not know, and he would consciously study what others seemed to know that he did not. Hence condescension rarely took his measure. Frank had a knack for taking peripheral jobs and turning them into positions of significant influence: he saw possibilities, creatively and actively. These capacities made Frank exemplary in his lifelong pursuit of formative justice, both for himself and for others.

[10:] Frank and I immediately became close friends and collaborators. We were both only children who grew up feeling an angst-free alienation from our backgrounds, each quite different. Our personalities also differed, but were complementary; I was the introvert, Frank the extrovert. Our lives intermeshed as young adults and for nearly 45 years our professional and personal activities overlapped in substance and spirit. What we read and studied differed at the margins but converged at the core. We taught together and pursued educational and technological projects together, all in playful argument, exaggerating our differences — the secular Protestant and the secular Catholic — while forming ideas and actions about which we entirely agreed.

[11:] This essay grows from our collaboration. In it, I do not explicitly speak about Frank, but explain a mode of engagement integral to his life. In interacting with others, in classroom, home, office, or the street, Frank engaged them unguardedly, meeting them as free, autonomous persons, seeking to cut through conventions and to reveal authentic judgments. Some found his there you stand, here I stand persona a bit frightening. Frank would not desist, however, for he felt this persona essential to his recognizing his own autonomy and that of other persons. Reciprocal self-disclosure is the core of formative justice, the recognition that as living persons we are continually busy, in the company of others, making of ourselves what we can and should become. Frank gave his free response to others and always hoped for

theirs in return. That reciprocity empowered his practice of education. Formative justice, the topic of what follows, emerges through such reciprocal interaction.

[12:] As a word, justice links closely with important institutions in our world, particularly with the judicial branch of government as it fits with the executive and legislative. But as a concept, justice concerns, not institutions, but qualities — fairness, equity, moral rightness. Here we concern ourselves with justice as an idea, and as the practice of an idea, a way of thinking about things and acting on and with them, not about "justice" as it may seem embodied in the work of institutions.

[13:] For Frank and me — and throughout this essay — justice and injustice concern qualitative human experience. Justice happens, not in actions done to us or to others, not in the results we or others suffer or enjoy; justice happens through us, through what we do. We are agents of justice, not objects of it. It concerns how we do what we do, how we act. It is what we try to do when we try, as we say, "to do justice to something." Valuing — positively and negatively — asserts and denies worth for and through us as we create meanings through our living actions in the world.

[14:] In this essay, an essay about education in a distinctive sense, I think and write from my first-person view. As persons, each and all of us live our lives through our first-person views. I start from how I experience my own life and the circumstantial realities in which I live. Those circumstantial realities entwine with other lives, each of us unfolding them through interaction between our sense of agency and our circumstances. From that

perspective, which was habitually Frank's perspective too, I seek to understand how I and other persons can and should regulate our efforts at self-formation.

[15:] In living our lives, each of us starts from a tenuous natality — a few pounds of flesh and bone, uncertain vital functions, an incoherent awareness, gasping a first breath in a vast otherness. From such small beginnings, each person undertakes extraordinary formative activities, shaping herself, as best she can, through a complex, multi-sided life. How does each of us manage all that? Can we do it better? Frank incessantly asked these questions, and he sought to live the response. Let us try to do so too!

[16:] Towards that end, I open the following essay with a brief "Hello" and a short section on "Acting Justly." In the immediacy of lived experience, persons feel an imperative to act justly, to correctly judge the relative worth of possible actions in attempting to determine which of them merits trying to make it the deed done. Judging that rightly constitutes the basic problem of justice that each of us faces continually in living our lives. In making choices we eliminate possibilities and want grounds for rejecting some and affirming others. In life, a person must continually direct her attention and effort, selecting which possible actions have the most worth for her, instant by instant. We live unjustly when we incorrectly judge the relative worth of our competing possibilities. We live justly by judging them well.

[17:] Then, I turn in successive sections, not to the next step in an argument that marches sequentially to a conclusion, but to successive layers of discussion, starting on "The Work of Justice," which rests on the opening on acting justly. What do people gain by abstracting a conceptual principle, which they identify as justice, from the existential requirement of acting justly? Naïvely, quite without a conscious concept, coping actively with circumstances, people use an inner sense in experiencing their existential imperative to act justly to and through themselves. They intuit and feel what's just and unjust. That enables their reflectively, repeatedly turning back mentally on that sensed immanence, bringing forth a concept of justice, identifying what helped them decide more clearly and consistently what was most appropriate for them, what had most worth for them, whenever they had to choose between competing options or possibilities and among different "goods," positive or negative. Through historical time, in life as persons lived it, they experienced recurrent situations that required choosing the better among alternative goods or the lesser among evils. They crafted a general concept pertaining to such choices, calling it justice, the rationale for acting justly. Relatively quickly in the history of thought, they then resolved ideas about specific forms of justice — distributive, retributive, social — from the general concept.

[18:] That discussion gives way to a third layer concerning "Formative Experience." I identify a formative power, not a power unique to human life, but one highly characteristic of it. All life has perceptive, active, and

self-directive powers, which genetic inheritance initiates and passes on. With humans, it becomes unmistakable that these three inborn powers emerge into a fourth, self-constituted power, a formative power enabling humans, singly and collectively, to form capacities and to regulate their self-formation by attending to justice, as Plato understood it, distinguishing "a good life from a bad, so that he will always and in any circumstances choose the better one from among those that are possible."[1] Subsequently, thinkers weakened the Platonic conception of justice by abstracting from it specialized forms of justice and giving them specific names such as distributive justice. To start renewing the Platonic conception of justice, choosing the better life, we give it a specific name: formative justice.

[19:] In a fourth stratum, "The Work of Formative Justice," I examine the concept of formative justice more fully. Problems of formative justice arise because persons and polities face the future and find more possibilities before them than they have the energy, time, ability, and wherewithal to fulfill. The possibilities they must choose among have both practical results and formative consequences, complicating the judgment of which to embrace and which to reject. In seeking to act justly, we make judgments about practical worth, for instance, distributive judgments about financial matters, like balancing a budget, personal or public. At the same time, those judgments have formative implications for our basic powers — perceptive, active, self-directive — strengthening some, weakening others, occasionally

[1] Plato, Republic. (C. D. C. Reeve, trans., 2004), 618c.

disclosing emergent abilities, cumulatively shaping our prospective capacity to conduct our lives. Both the practical and the formative are vital imperatives. Hence, persons and polities both form their unfolding activities by attending simultaneously to instrumental questions and to formative justice, deciding how to pursue each and to harmonize both. In this process, conceptions of formative justice concern principles that both persons and polities use in determining aspirations and allocating effort to form, reform, and transform their perceptive, active, and self-directive capacities for pursuing those favored aspirations. Frank very actively exercised his formative power; it was the creative engine of his life.

[20:] In three final reflections, my concern shifts away from uncovering the concept of formative justice to show it at work in the phenomena of experience. With some exhortation mixed in, I discuss three layers of concern about how we use formative justice in conducting our lives. How might fuller attention to formative justice change educational theory and practice? Can we use it to transmute what we perceive as the pedagogical problem? In light of that problem, can we deepen, even ennoble, the valuations with which we select, energize, and control our actions addressing it?

[21:] Frank and I drew together because we reciprocally recognized that formal education was intrinsically meaningless, mere accidents, some helpful, others troublesome, that we had to deal with in our personal self-formations. We would marvel that we could get paid for

educating ourselves in public. As educators of educators, we have stood for a pedagogical reformation that will come about when each person fully engages in their own self-formation, joining with others to optimize the circumstantial opportunities that each experiences for shaping their lives.

[22:] That's the message of “Towards an Educational Inner Light.” We can and should seek, not so much the external reform of instructional institutions, but far more a reformation within “the Great Didactic,” within the global system of instruction and the global lifeworld encasing it. Insofar as instruction is causal, it is not meaningful, and insofar as it is meaningful, it is not causal: each person must integrate the instruction she experiences meaningfully in her overall formative experience. Each person is always a student in the school of life and she succeeds there by relying on her own agency, purposiveness, self-direction. It is the prerogative and task of each, to pursue justice, to judge correctly what she can and should become in fully forming her capacities in the actuality of her circumstances. A reformation within the Great Didactic will make it serve the inner life of each person who seeks to use both the formative resources didactic institutions offer along with all the other formative resources pervading the contemporary lifeworld.

[23:] In “The Purpose of the Polity,” I turn to the lifeworld writ large and how goods, allocated in it through exchange-value regulated according to distributive justice, have substantial formative use-values that further and hinder human self-formation. Major formative

goods are schooling, medicine, and other human services, and many consumer products are formative goods as well — cars for transportation; phones for interpersonal communication; computers for managing information; rent and mortgages for housing and durables for keeping house; and all sorts of goods with which we give form to our perceptive, active, and self-directive powers. In considering these, public attention concentrates primarily on distributive justice, contending over conceptions of equity. By themselves, criteria of equity often do not yield an effective consensus about how to allocate formative goods. Principles of formative justice could and should lead to a more effective consensus about the distribution and uses of formative goods, especially instructional programs and human services. A full understanding of universal education for both the person and the polity sets forth a more challenging and stirring public purpose than compulsory schooling in the service of career and consumption.

[24:] With "The Stakes of Formative Justice," I conclude the essay. Here we turn from the material conditions of life to the ideals and aspirations that imbue it with meaning. Behavioral manipulation is waxing strong; democratic interaction wanes ever-so thin. These stakes are very high because appearances are working to diminish our sense of agency for both the person and the polity. But despite appearances, all acting differs deeply from its ex post facto explanation. Empirical study of past behavior — of behavior that when observed has already been fully determined —

causally accounts for what people have done. Those fictions, the mists of great expectations, yield a confection of explanatory variables that blur together a multiplicity of actual instances — the unique particulars of each actual instance dissolve into an abstract distribution of causal probabilities, accurate for no actual case. The blur of probabilities tells us nothing about the lived experience: when it happens, an improbable instance proves as actual as a most probable one. Whichever — the past has become actual. We cannot change it. We suffer and explain it. Insofar as we privilege objective appearances over subjective aspirations, we risk losing sight of how active agency in the prospective conduct of life enters the processes determining what takes place in the living present. We do not live as objects merely responding to external stimuli; our lives are our primary reality, one lived in a continual present, facing an indeterminate future to which we cannot passively acquiesce. We can and should, each and all, assert our human dignity and autonomy, proclaiming formative justice for all. We can renew and advance the goal of enlightenment, recognizing with J. G. Herder that each person has the right and duty to contribute to the betterment of humanity what she herself makes from what she can and should become.

[25:] Cumulatively, the different layers of this essay present formative justice through exploration and exhortation. I am writing it late in a long life of reflective study. I say little about how and why my views converge

and diverge with more familiar currents of contemporary thought and scholarship. I do not write to show how others err; I write with the simple conviction that among the modes of interpreting life in contemporary circumstances, formative justice merits more attention than it currently receives. On occasion, I point out differences between my concerns and more familiar lines of inquiry, mainly where it may help make what I am trying to say clearer. But what follows seeks to convey what I think, not to defend it relative to alternative views.

[26:] That is not to say that I have nothing to say with respect to alternatives. Online, anyone who wants to situate this text relative to existing literatures can read and comment on an annotated version. It has many mini-essays amplifying quirks of my thought and explaining how my views differ from alternative ones.[2] In conducting seminars and colloquia on important texts, Frank and I always found the spirit of a writer's thinking more significant that the letter of his thought. These annotations elucidate the letter of the essay while trying to accentuate its spirit. They invite readers to join in the inquiry, to amplify a thought, to register caveats, and to explore possibilities around its central theme.

[27:] With that, let's begin.

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[2] Readers can access this version at www.LearnLiberally.org/wiki/Formative_Justice. They can also download a PDF version for printing, 2 pages to a standard sheet of the complete text, with revisions as they might accrue, at www.LearnLiberally.org/files/Formative-Justice.pdf.

Formative Justice

> One can contribute to the betterment of humanity only what he himself has made from what he can and should become.
>
> Johann Gottfried Herder[3]

Hello

[28:] Let's think about justice and education. No, not justice in the distribution of educational opportunities, not to begin with at any rate. To begin, let's think about what we can and should make of ourselves, doing justice to ourselves.

[29:] How can we fulfill ourselves through our own education, our own self-formation? How can we do justice to ourselves? Each of us has hopes, interests, and abilities. We have some opportunities, but not all we'd like. And each of us has problems, limitations, and anxieties, too. How do we manage all that in educating ourselves as well as we do? As well as we can? How do we define and shape our possibilities and realize the best among them?

[30:] Most of us have been around a while, getting experience, with time to study, perhaps thinking about justice and education and forming some views about

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[3] Johann Gottfried Herder, *Briefe zur Beförderung der Humanität*, Dritte Sammlung, Letter 32, [1794], (1971), pp. 108-110, quotation, p. 109.

both. In doing so, let's not think about justice and education as disembodied specialists, as some so often do, writing for a few, familiar colleagues from our perches within our special fields.

[31:] Each of us lives one life. Let's think and write from within it, a whole, finite, at once copious and limited, unique and integral. We can and should write, read, speak, think, and act, not within our fields, but within our lives, which take place in interaction with a diverse, extended community of other lives, enlacing each with others across varying degrees of distance. Let's think about justice and education through the public use of our own reason.

1 Acting Justly

[32:] Let's begin by asking — Why do we worry about acting justly, about doing the right thing? Let us ask why acting justly engages us, not in the abstract, as a concept in the common world of thought, but concretely, as something about which we care as we experience our doings, large and small.

[33:] Why do I consider how others might feel about my actions? Why do I feel offended by some behaviors that I observe even though they do not affect me directly? Why do I fret that I am doing something wrong, not ineffectively, but something that will bring troubles in its train? Why do I find myself in my inner experience of life, in my living, acting in my circumstantial world, not simply planning how to do whatever I am doing, but wondering what I should do, feeling an imperative or a prohibition, acting with emotion, caution, abandon, investing what I am doing with considerations that go beyond the matter-of-fact instrumentality of my action? For now, let us call all those extra concerns, beyond the instrumentality of the moment, the problem we feel of acting justly. We could call it the problem of acting truly, rightly, beautifully, or wisely. As acting instrumentally takes place immanently in acting, so too does acting justly. Neither arises because a separable property, instrumental or just, gets entangled in some instances of acting, but not in others. Acting justly is immanent and integral in all acting, and here in this discussion, we should keep that in mind: the problematic of all acting entails acting justly.

[34:] But why do I have a problem of acting justly? Why do I feel affect while acting? All about me, things happen with a dead cause and effect. The pebble at my doorstep, the sand on the beach, the mist in the morning air do not seem to hope or worry; they simply exist, changed passively by the forces affecting them. The mist, uncaring, persists or burns off as the forces at play determine. But unlike the mist, as a living organism, I sense a contingent order in the world in which I live, and I feel I should try to act towards those contingencies intentionally. I can perceive and resist the forces, which burn the mist away, and work to maintain myself and the ordered world in a way the mist cannot. How do I take my stand?

[35:] I teem with tacit expectations — the floor where I walk will support my step. I take them for granted in pursuing my intents within the context of possible action that they provide. As I drive my car, I use dynamic expectations, which flit in and out of consciousness, about how roads will have been built and maintained, about what signs and indicators mean, and about what the rules of the road — formal and informal — imply, and about how other drivers along the way will interpret and act on their own expectations in turn. Such presumptions about what sort of order prevails in and about me have a great effect on how I form and carry out my intentions.

[36:] Throughout my life, these expectations have grown, deepened, and diversified, but I think they have always been there, to some degree, inherent in my life. I believe that as an infant, thrust from the womb, I had

some inchoate expectations about the possibility of warmth, support, sustenance, and care that enabled me to respond actively in a way quite different from the morning mist as it passively fades beneath the rising sun. I recall as a child, wanting the conduct of life — my own and that of those around me — to follow paths that had a tenuous order, and on occasions, not too frequent, losing control in a monumental tantrum when what was happening seemed to thwart that order. And then, big time, as an adolescent, I started to observe and worry about how others, especially my peers, would react to what I did as I tried to exercise my own discretion, and I would churn with judgments, admiring and withering, about how those around me were acting.

[37:] Why do I, or you or both of us together, as human persons, living human lives, concern ourselves about the order of things in the world of our experience? To some degree, my lifeworld passively happens to me, but equally I acquire it actively as a contingent order in the midst of which I act. I shape it as an acting agent. I work to maintain it and myself in it, as I presume other persons and polities do, all acting agents, as we lead sentient, choice-filled lives within our lifeworlds. Many deterministic processes take place in my lifeworld, within and around me, but I act, I conduct my life with respect to the contingent order that I sense and perceive in my circumstances, making choices about perceived possibilities. Even as I use the deterministic processes — relying on rainstorms to water my garden — they become, however deterministic, contingent relative to my use of

them, for a drought would desiccate my carefully planted grounds.

[38:] In life, I never intend a simple, univocal end served by a single means. Like it or not, my exercising a means has a purpose with both direct consequences and side effects, which all bear upon my purpose. My discrete intentions concatenate with others: I turn on the light to read something for some purpose which leads to something else. This leading on gives my intending a temporal depth, which makes it complex with a beginning, middle, and end stretching out in a dynamic, changing context. As my purposing proceeds, its basic import may change with my reading reminding me of something else entirely that I feel I must do.

[39:] As an actor, I must weigh as best I can immediate values relative to eventual ones, risk against probability, cost against benefit. And I never do only one thing at a time. Whether aware of it or oblivious, my intentions cascade. They become a flow of overlapping purposes. Hence, as an actor, I must continually reassess, reaffirm, and renew my choices, my intents, weighing this against that. For me, and I think for all, actions have multiple consequences and try as I might I can never only do one thing at a time.

[40:] As a person trying to do something, I synthesize my perceiving and my acting relative to a flux of intent. I find I must weigh how to allocate my effort and attention, how to draw on my abilities and energies, fittingly within a multiplicity of overlapping purposes, with my intentions and capacities continually strained by unexpected complexities and contingencies. In other words,

I find I must deliberate about how to do the intent justly — not too much of this or too little of that. In fact, I always want to do the intent justly, to form and perform the intent in a manner worthy of my abilities and of the immanent meaning I sense it to have. But I cannot meaningfully do it by merely flicking a switch and then moving on.

[41:] In acting justly, I assess my intent in itself and in its context, weighing it relative to other intents, the possible, the passing, and the pressing. My doing requires my finding the right measures appropriate to my intent, of perceiving my circumstances rightly relative to the intent and of acting appropriately in accord with my purpose. Such deliberations, large and small, embed over and over in the innumerable attentive motions and glances that constitute my living in my world.

[42:] Through all my acting, I seek to control both myself and my circumstances in ways I think I can and should. As I act, as I do anything, trying to exercise intentional control in any situation, whatever my intent and my associated spheres of perception and effectuation, I am not engaging simply in an instrumental matter. My acting has embedded in it a primordial problem of doing it justly, an imperative of measure, of fit. For the most part, whatever I intend, I purpose it immediately: when a possibility becomes my intention, the intent immediately informs my perception and action as an attraction, a revulsion, an access of anger or pity, a feeling of respect, a sudden stepping forward with conviction but without premeditation in an altruistic act, or a resolve to sustain a long-term effort. Acting justly

arises from having to act within a contingent, perceived order in and around me, which I use in acting, which I value by acting, and which I try to maintain or improve with the side effects of my acting.

[43:] In my acting, my thinking precedes my thought. Usually, I speak words appropriate to my intent without consciously selecting them to fit my purpose. Thus, my thinking takes place integral in my acting, not simply as a state of my consciousness apart from my acting. As distinct from the inanimate world, life consists in informed action; action formed within; action that utilizes information, informative in the acting. Living action requires information processing and information processing pervades vital activity — watch a centerfielder react and run to snag a long fly ball. We separate thinking and acting erroneously. Even in sitting quietly, seemingly doing nothing, I am thinking for some purpose, however vague. We do not simply generate random states of consciousness. In thinking, I am acting; in acting, I am thinking. In willing, I think an intent, subliminally, sometimes consciously. Relative to the intent I can sense and assess pertinent feedback, as in greeting another, and with the intent and the feedback, discriminating spontaneously between relative stranger and old friend, I can modulate how I am acting in many ways, often unconsciously, with a subtle reserve or unguarded familiarity, and even with a well-rehearsed observance, comme il faut in formal ceremony. Intelligent use of feedbacks does not occur only in the higher faculties. It pervades all living processes from the minutest sub-cellular ones to the most comprehensive collective

interactions. Life emerges from elemental information in interaction with matter and energy.

[44:] As my thinking/acting takes place, it starts with a norming — channeling attention and effort to realize the intent — and it carries through to completion with a sequence of doing, instrumental efforts guided by feedback about the situation relevant to the intent, always modulated and perhaps negated as I continually assess the worth of my intents and possible alternatives to them. My intending norms; but not by my linking the intent to a normative attribute, not by conforming the intent to some given, external norm. Instead, my intending creates a norm; I am norming; projecting worth, purpose, through the controlling effort. Rather than having self-subsistent values, virtues clinging to me as if a suit of clothes, my intending creates value, a valuing that projects meaning and purpose into the world. Without the intentionality of living agents, the universe would remain an insentient chaos of meaningless stuff.

[45:] All living agents, in effect, in some way or other, worry about acting justly as they pursue the intentionality of self-maintenance in the world. They must pursue ever-changing ends in view in ways that preserve and perfect their capacities for self-maintenance, a complexity of intent that requires effective judgment. All agents, acting on contingent purposes under the definite conditions of a time and a place, must pursue a complex intent, seeking a successful outcome that will additionally bear sustainable consequences. Attending to the sustainability of those consequences requires,

however simplistically, acting justly, exercising judgment. In the human world, the work of justice, a sophisticated concept, serves to facilitate our acting justly, our maintaining our capacities in innumerable situations, whether passing or important..

2 The Work of Justice

[46:] I shift here from examining the importance of acting justly in my lived experience, recognizing that acting involves more than exerting instrumental effort, to trying to grasp the connection of that naïve process to the formation of concepts, particularly the concept of justice. The work a concept of justice does in our lives connects to the naïve problem of acting justly. What is that work? What does the concept do? What takes place in our immediate, inward efforts at acting justly at different levels of sophistication?

[47:] Initially, I try to respond to this question from the inside, so to speak, not by observing external behaviors and making inferences about them, but by attending to my inner, lived experience as best I can sense it taking place. Can I grasp the intuition at work in naïve efforts to act justly? What sort of pre-reflective inner sense would help me act in all the different ways of acting justly? These questions present difficulties because the naïve inner experience does not take place with all of it neatly categorized according to well-articulated systems of thought. What is immanent in my naïvely acting is not a ready-made referent of a concept, but a lived experience an aspect of which becomes the referent of the concept. I can and should look more closely at how I inwardly sense my acting in efforts at acting justly in order to perceive, perhaps, that aspect of experience to which a concept of justice can refer.

[48:] Then, having grasped the inner sense at work, I note briefly how reflective thinkers brought into conscious thought a concept of justice that people could use to account for and facilitate important aspects of the thinking involved in acting justly. Living in an age of cultural sophistication, I cannot access the formation of the concept by probing my own phenomenal experience, for I acquired the concept the easy way, through study of other persons' thinking. We can see the concept of justice forming in an historical phenomenology, however, starting with ancient Greek experience with the general concept of justice and then seeing it becoming refined to deal with special kinds of justice in important situations that often recur in human experience. Doing so, we can prevent cutting the concept free from its roots in lived experience.

The Inner Sense of Justice

[49:] My thinking constructs my world as I experience it. Having transformed my raw perceptive capabilities into seeing, touching, tasting, hearing, smelling, having synthesized a set of rational categories, I construct a phenomenal world within and about me. Thinking — not having big ideas, but living, subliminally alert, consciously aware, having an active mind and all the workings within, which my thinking manifests — allows me to move, to act within the world and on it. All acting both norms and operates, and the norming comes first, for perception and action become operational by serving the worth asserted through the controlling intent. Wanting, desiring something, invests it with worth to

me. Thinking enables perceiving and acting to gain purposeful power, complexity, nuance, endurance, and scope.

[50:] Thinking considers acting justly, not as a reasoned conclusion, an outcome of the thinking, but as an important part of the thinking integral to the process of acting. Acting justly takes place, not by a property of justice becoming predicated to the outcome of an act, but through the use of an inwardly generated reference point allowing us to imbue the acting, be it justly or unjustly, with an adverbial spirit and character. What takes place as an agent tries to act justly? What is going on in the process? What inner sensing does the agent use?

[51:] Acting by living agents, especially humans, usually has multiple feedbacks, which vary and compound in character. In acting, in the flow of thinking integral to acting, I might, like a thermostat, attend to only one, or only those of a certain kind, or try to take as many as seem relevant into account, weighing them, perhaps dynamically, according to a complicated measure. If I am acting in even a modestly complicated manner, a lot comes into play. What am I sensing, or not sensing, if I am acting justly, or unjustly, in this matter?

[52:] Within my circumstances, by acting justly, I act in ways conducive to life, to the self-maintenance of a self-maintaining agency. By acting justly or unjustly, I strengthen or degrade my capacity for self-maintenance. In endless ways, foreseeable and unforeseen, my acting can prove ineffectual, unwise, destructive, undermining my capacity for self-maintenance. Should I

manage, by good fortune, intelligence, and virtue, to act justly, I will maintain my capacities for self-maintenance. Should I manage… — I cannot help but act contingently. I always risk failure. Hence, in everything I face an ineluctable question: Will what I am doing maintain me as a self-maintaining creature in the world?

[53:] My acting can easily err, for I must integrate different kinds of concerns in a single determination. I must weigh multiple determinations against each other, with high portent under concrete, fast-changing circumstances. Three distinct uncertainties enter my thinking about how to do what I do justly, about whether in actuality I will be effectively serving my capacity for self-maintenance.

[54:] First, what I anticipate may excite my repugnance, or leave me cold, or pale in comparison to other possibilities; I could do it but have no appetite for it. In doing anything, I face an instrumental, primarily causal, imperative, to do it successfully. I estimate my know-how, and the requisite time doing it might take, but I can't get excited about it. Thus, countless intentions simply fail because I lack sufficient drive to make the effort. This lack of drive may be astute in the sense that the possibility, however easy to achieve, will bring negligible returns. Or it might be dumb if the cost-benefits work the other way. Either way the appetite must fit the worth of the question, and a deficient or misdirected drive can upset my self-maintenance

[55:] Second, I may misallocate energy and effort to a purpose that is otherwise both feasible and beneficial.

Most major sins indicate how I might distort my allocation of energy and effort while thinking and acting concretely on specific possibilities. The list is familiar, but we must recognize that the names on it are late cultural inventions to indicate my existential feeling of powerful drives and urges that can subvert my effort to act justly before I get started: lust, gluttony, greed, sloth, wrath, envy, pride, acedia, vainglory, and so many more. These misallocations, these errors in valuing the worth of my intention can seriously impair my capacity for self-maintenance, dissipating it quite independent of whether my act succeeds or fails

[56:] But a third contingency looms behind these. As I act in many situations, I can fail to judge my intentions rightly, mistakenly pursuing an intent that proves not to have been what I really wanted. Such failures emerge into prominence as unintended and unforeseen consequences impede and entangle my further efforts. I achieve a deeply felt goal, energies spent, only to realize that it did not yield the fulfillment I sought. I may have acted successfully, but not prudently. This third type of contingency requires me to form my purposes with some care, to examine life through my sense of fulfillment to find what truly serves my self-maintenance.

[57:] In doing anything, the doer sets his purpose by sifting many possibilities while entering and sustaining his course of action, progressively eliminating various ones as infeasible, not worth the effort, or imprudent. The doer cannot simply make a choice and eliminate all the possibilities but one through causal reasoning that

extrapolates separately the consequences that each might bring. Acting justly requires foresight. The possibilities coexist over time, interacting as the choice unfolds. He can and should assess the possibilities, thinking about how they will interact reciprocally with his experiential context. In doing so, he judges their worth. As these interactions take place, he assesses and eliminates possibilities that he judges too difficult, deficient in value, or dangerously imprudent until his action runs its course. What has then taken place embodies the worth inherent in the possibilities he did not exclude.

[58:] This mode of forming purpose by eliminating competing possibilities will seem strange when we think of purpose as a property attaching to a potential action that somehow motivates the origination of it from out of a quiescent state. Life has no quiescent state. In sleep, the living organism attends rather exclusively to its internal circumstances with a bundle of activity repairing the stresses and strains of wakeful actions. Purpose does not motivate; it concentrates and directs the ongoing energies of the living person. Living has no properties, only processes guided with reference to many purposes, both actual and potential. We live by managing these with positive and negative feedbacks, pulling some to the fore, pushing others back, a complicated modulation that requires diverse reference points by which the feedbacks function.

[59:] My inner sense has vital importance as I judge among competing possible valuations intuitively. But my ignorance and emotions can easily distort my intuitive judgments. I act contingently; I may or may not

succeed; I may or may not have what it takes to stay the course, I may or may not act prudently; and I must harmonize a multiplicity of possibilities successfully and prudently. Synthesizing these imperative contingencies, I control with available feedbacks what I try to do. Through this modulating process, a person synthesizes intimations of feasibility, commitment, and sagacity as a unified, dynamic criterion enabling her to act determinately, thereby excluding many significant possibilities.

[60:] Why do I start thinking consciously, explicitly about something like the justice of my acting? Why did people do so in historical experience? What do concepts enable us to do? People naturally have tenacious physical memories for movement, places, sounds, smells, tastes, appearances, and skills all without reliance on concepts. We can anticipate, short term and longer term, without concepts, based on our feel for things. What do concepts in consciousness add to all that? Let's hypothesize for our purposes here that they help to identify potentially significant similarities and differences in memory, personal and collective, available to our active thinking. Concepts organize memories, aid recall, and formalize thought, enabling us to direct and discipline our thinking. Derived from thinking, concepts do not mirror nature. Instead, they represent our thinking to us in our thought, accessible to thinking as a conscious residue of past thinking. We form a concept to approximate in consciousness what the analogous inner sense enables us to do in the immediacy of thinking.

[61:] Concept formation would start from imperfections in thinking, for me personally and for people collectively in historical time and place. Oops, thinking wrong-headedly what to do, people found the consequences unexpected, unpleasant, dangerous. They started, implicitly and explicitly, to wonder what would more dependably prove to be of worth in their self-maintenance? Ad hoc coping with situations at hand often furthered their self-maintenance, but it would differ from something that would make people more capable of self-maintenance in consistent, sustainable ways.

[62:] Reaching for that, they would try to complement their inner senses with reflective concepts that would permit discriminations among postulated possibilities, analogous to what they sensed themselves doing in the flush of active thinking. Such concept formation began in story and myth, situated on Olympus in that airy space of imagination, ready to restrain the angry warrior in a flash of self-conscious calculation. Recursively building insight on insight (note the word — seeing in), people worked out concepts, among them justice, that would help them rationally identify what would more surely prove to be conducive to self-maintenance in life, fulfilling and meaningful. Rational thinking, systems of thought, thus emerged from behind the impenetrable veil cloaking spontaneous thinking as it is taking place.

[63:] Integrating and coordinating all the norming taking place in cultural life taxes the vital capacities of both living persons and of fictitious ones, the various polities in our circumstances. Like other animals, humans need

a sense of self as a reference point in integrating and coordinating all our manifold natural activities, our lives as animals. Even more, living complicated lives, integrally depending on our cultural experience, so we need something like a sense of self to integrate and coordinate our manifold cultural activities, our lives as cultural creatures — the self, the concept that approximates back to us the dynamic sense with which we direct our perceiving and acting. Given the complexity of cultural experience, we face daunting tasks in using negative and positive feedbacks to maintain our cultural capacities for forming and maintaining our cultural lives. Such feedbacks require a marker, a hypothetical stable state, relative to which we perceive similarities and differences, we judge instabilities — deficiencies and excesses.

[64:] In this way, people have equipped themselves to dampen down and to amplify capacities, which can enable them to stabilize disequilibria in seeking their self-maintenance. We shall follow Plato in calling an important, complex reference point, justice, making a substantive of the inner sensing that takes place in acting justly. Here let us sketch how the ancient Greeks and more modern peoples elaborated an understanding of justice in their thinking about the conduct of their lives.

The Concept of Justice

> In choosing reflectively between competing goods, people use a concept of justice to indicate what they judge to be most conducive to their sustained self-maintenance.

[65:] We have seen a problem of justice, both intuitive and reflective, arise in all activity, for all acting agents face an indeterminate future that harbors many possibilities from which the actor must concretize intentions. 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 assessments of worth in many routine activities, treating them, like a bird building its nest, simply as exclusively instrumental concerns. But in complicated, many-sided living, many activities evoke doubt, a nagging feeling of unease, indignation, contention, aggression, despair. As in routine concerns, in these more portentous situations, persons, proficient toolmakers, must also make choices about how they will conduct and maintain themselves over an extended span of life.

[66:] In doubt, people chose more reflectively; in doing so, they formed 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 rightly accomplish what the person would intend, given what hindsight might reveal? 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, taking contingencies into account as fully as possible. As we've seen, valuing first occurs through spontaneous, unre-

flective effort. Often enough, a person would do something impulsively, suffering the consequences, whatever those proved to be, bearing the burden, living to regret the act. Having suffered consequences, a person might start trying to act less impulsively, forming concepts with which to categorize situations, to assemble experience, and to work out prudent intentions relative to them.

[67:] As such a reflective effort spread among people, an important concept developed through it would become the principle of justice, a concept in consciousness standing for the inner sense with which they synthesized felt drives, operational intentions, and the ineluctable imperative of self-maintenance into their intentional activities. With the concept they could try to consider and plan the pursuit of justice in their personal and political lives. People could form a concept of justice and other concepts like the good, the true, the beautiful, and many more, and use them to examine and shape their intended actions, because the concepts linked to significant aspects of the inner senses immanently at work in the flux of acting. With thought and care, persons made these qualities explicit. An idea of justice, abstracted through their reflective detachment, helped them assess the character and worth of their purposes in rational thought. Limits persisted: people could conduct life with more forethought, acting with greater scope and complexity, but in the end, remaining subject to the contingencies of mortality.

[68:] Concept formation, Begriffsbildung, has an important history. 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 by assessing the flux of possibilities and setting those aside that excited little drive, allegiance, or confidence. Furthermore, their goals were not transparent, univocal, simple. Even under primitive conditions, lived lives were full, complicated, and many-sided. Each person pursued many goals simultaneously, each goal had its priority, scope, and duration, all of it flexing in a flow of controlling effort, requiring diverse evaluative selections.

[69:] Recurrently, in this changing river of intentional actions, people became aware that they could form and use a concept to define a class of activity from their complex, amorphous purposes. To do so, the concept had to resolve an important purpose with enough 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. And as people reflected on different modes of action, they subsequently abstracted out types of justice.

[70:] Distinct concepts of justice particularly relevant to acting justly in each discernibly distinct mode of acting provided explicit criteria for judging how to act justly in each domain. At its most general, a concept of justice

would address the problem of winnowing out competing goods or selecting the lesser evils in trying to form a distinct intention. They would do that in diverse situations, forming various criteria for making judgments relative to them, but whatever the situation or criterion, people had to assess and select among multiple possibilities when pursuing all of the possibilities effectively at once was neither feasible nor prudent. And substantively, whatever the situation or criterion, they faced dual imperatives of acting successfully on the matters at hand and doing so in ways that support and strengthen their capacities to maintain themselves as self-maintaining agents. Concepts of justice that failed to maintain the capacity for self-maintenance would come to seem unsound.

[71:] Long ago, humans ceased living as simple toolmakers, becoming very complicated ones, at once instrumentalists and normativists. Our continuous assessing of relative worth, however complicated, takes place relative to all that is going on in our living our lives. As complexities ramify, we start segmenting our assessments of worth, concentrating on aspects of valuing that seem to work similarly. In the sweep of history, we split the norming in our life conduct into different kinds: estimating utility, forming certain virtues through habit and conscious choice, willing from a controlling sense of duty or obligation. In ethical philosophy, an endeavor abstracted away from the living of life, these kinds of norming become the vital basis for contending schools of formal thought — utilitarianism, virtue ethics, deontology. But actual norming in the flux of

life uses all three and many others in working out the operative intentions by which we guide ourselves through our manifold activity.

[72:] So far, we have seen concepts of justice emerge through a rather abstract phenomenology of acting justly. Let us anchor the emergence of concepts of justice a bit by considering early Greek experience. As a noun, as a named thing denoting a concept, justice exists only in the realm of abstraction, as an idea that people may come to hold in personal and historical life. In contrast, as a lived experience, our striving to act justly amid actual circumstances takes place in living actuality. For each person, the distinctive challenge to human judgment, to which we may or may not come to apply an abstract idea of justice, requires our maintaining our capacity for self-maintenance. We may suppose that very primitive peoples would have striven to act justly although they were quite without an abstract concept of justice. The concept allows people to reflect on historical experience long after the modes of acting on which they reflect have had extensive historical actuality.

[73:] 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. They began simply by calling the relevant principles 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, like a small child vo-

ciferously objecting when his mother slips an innovation into his favorite tale. Dikê 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, dikaiosynē.

[74:] To understand how a concept of justice works in practice, we should keep in mind the sense of modulation, of nothing too much, of compensating for divergence. For some reason the modern mentality obsesses about precisely hitting targets, as if life consists of such discrete actions — cholesterol ratios, GRE scores, quarterly earnings reports, or the unemployment rate. But life does not inhabit fixed targets. Self-maintenance flows, fluxing, many-sided, ever contingent, requiring continuous adaptation. The dynamic processes of life simply do not assume a precise, stable condition. Abstract, unchanging concepts, fictions, purely conceptual entities, can nevertheless provide points of reference, points — dimensionless locations — with reference to which people learn to perceive and correct imbalances, disharmonies, deficiency and excess, departures from the fit course.

[75:] Dikê initiated thinking about the power of negative and positive feedback to control action, steering it towards some goal by pushing against the direction of the deviation from course or pulling back from an overcorrection. In practice, self-maintenance arises from feedback-driven self-correction. Justice, the inchoate concept, encompassed several distinct ideal forms, each a latent species within the conceptual genus, and as key thinkers became aware of the complexity of dikê, they

separated out some of the key forms that the concept of justice takes on historically. This process continues apace.

[76:] For instance, distributive justice became explicit, a vital concern in life because people often had to divide up goods and benefits among members of a group when the stock of these was insufficient to meet all their expectations. Autonomous groups had to divide up scarce material goods in ways that maintained their capacity to maintain themselves. Therein lies the issues of distributive justice. Distributive justice has been of paramount importance to people because the goods and benefits available have been scarce yet important to the quality of life. Hence, desire for them was strong and people competed for them with determination. A just distribution was imperative, but what it meant in practice was unclear and hence the problem of distributive justice required a criterion, usually named equity, which specified what the distribution should mean in practice. Consequently, disagreements about distributive justice primarily turn on disagreements about its operative criterion, about what constitutes equity.

[77:] People in groups have distributed public goods — natural, material, and social — from time immemorial, and doing so will remain an activity of pervasive importance in the public 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, personally and publicly, to balance the competing claims of poverty and luxury? How

should they reconcile the few, seeking to get more for services rendered, with the many, stunted by too little? Both sides feel its claims have merit. 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.

[78:] Beyond distributing goods and benefits, life entails many other forms of activity. In these activities, people have a vital interest in acting justly as well, for these too bear on maintaining the capacity for self-maintenance. For instance, someone transgressing the ruling norms within a community will trigger actions for restitution and retribution. Long ago, people started punishing crimes, practices which 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 formed principles for thinking about what punishment fits the crime. Thus, they formed principles of retributive justice to manage who would punish transgressions, how and why, a process memorialized by Aeschylus in his Oresteia.

[79:] 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. Reconciling competing sets of norms has become endemic in historical life. Antigone, a great Greek drama by Sophocles, depicts the clash between established

norms of the familial estate and the emergent norms of the urban community, the polis. The inability to reconcile conflicting norms constitute some of the most recalcitrant conflicts dividing peoples. Early in American history, despite their rhetoric, leaders privileged the rights of property, as then understood, relative to the rights of man, and they legitimated the institution of chattel slavery despite their higher-minded principles. Real property no longer includes persons, but the divisions persist. Globally, through long and difficult conflicts, people struggle to establish the priority of human rights over property rights. 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 elemental human dignity.

[80:] Problems of social justice often intertwine with those of distributive justice, and retributive justice as well. Thus, we recognize how the social injustice of slavery has continuing effects such as those embedded in issues of distributive justice as people argue over affirmative action. Additionally, we can see the after effects of slavery in problems of retributive justice, as America's real exceptionalism, its atrocious incarceration practices. Consequently, people must seek, not only principles of justice to guide imperative choices within specific spheres of action, they must harmonize those different principles of justice with each other.

[81:] 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 concerns, their palpable purposes conflict and exceed their possibilities. Intentional action inherently functions instrumentally, for in pursuing a purpose one must exert control to achieve it well. But prior to its instrumentality, intentional action inherently works subject to limits, to checks and balances, to choices, not of instrumentality, but of relative worth, of fitness. As we seek competing goods, which will serve most appropriately, rightly? Principles of justice serve in making these choices, in judging the worth of competing intents while facing the challenge of preserving the capacity for self-maintenance by both persons and polities.

3 Formative Experience

[82:] All persons, all living agents for that matter, by themselves and in many combinations, must choose at any moment among numerous potentialities and possibilities for action. As we have seen, this constraint in the structure of action creates the problem of acting justly in its most general sense. The person or organism may or may not choose "freely;" but in the course of acting, choices take place and the indeterminate becomes determinate. Acting entails willing an intent, whether free or fated. In coping with constraints, people face an indeterminate future and must always evaluate numerous possibilities, not all of which they can satisfactorily pursue. Talk to a young person fully engaging adult responsibilities, indebted from school, newly married with a child on the way, a good but pressured job, husband in medical school, an incomplete novel tucked away in her desk. Can she have it all? What possibilities should she give up?[4] These situations pose for us the great formative question, the core question of Bildung, of formative education: What can and should I make of myself?

[83:] Let us now pause briefly to contemplate such situations. What has been the etiology of human power? How, in an instant of geologic time, has the human species become so fecund and powerful, for good and ill, subjecting the earth, and life upon it to our will, so powerful, yet perhaps so blind? And in that vast arena of human experience, what have humans been doing that

[4] See for instance, Anne-Marie Slaughter, "Why Women Still Can't Have It All." *The Atlantic Monthly*, August 2012. (p. 10).

brings us here, thinking about formative justice? As humans, as living organisms, people worry about justice because in doing what we do, we continually have to check and reject potentially valuable intentions, purposes which could enhance our capacity to maintain ourselves amid our circumstances. In the flux of these evaluations, we use our sense of justice and formal principles of justice to inform our choices. Here we ask, why should we include a principle of formative justice in these considerations? What value does a formative process have in human life? In the full range of our experience, what might it mean to call some of it formative?

[84:] In life, as living agents we perceive, act, and direct ourselves within our circumstances and as we do so, what takes place through the churn of interaction constitutes our experience. Life lives: I cannot separate myself from my field of agency, from intending in a circumstantial context. I'm sitting in my chair here in my study, revising my text, making judgments about how well or poorly it will convey my intended meaning. I can think of myself as a part of my circumstances, perceiving myself, my internal drives, the external forces impinging on me, but I do that for some purpose, even a quiescent one of attaining a state of mindfulness or meditative contemplation. Usually, I am activating myself, interacting with other selves, and coping with diverse things around me, relying on my capacities to take account of those other selves and all the restraining forces and things. To pursue my bundle of purposes, I try to exert some control on my perceptions and actions to better manage my conditions.

[85:] Take something simple — walking. I perceive all sorts of things about my path — anticipating where to place my forward foot and the firmness of the ground from which I will push off. In walking, I act, largely by unconscious habit, raising and moving one foot forward, pushing off with the other, shifting my weight off the back leg, falling forward the distance of a stride, interrupting the fall with my front leg, heel to the ground, rocking up on it, forward foot moving back, back foot forward, each step mirroring the former. And with every stride I do a lot of self-directing, correlating the forward thrust of the front leg and the vigor with which I tip myself out of balance, not to mention the maneuvers with which I avoid an obstacle or keep from stepping in water or waste as I determine where my path should lead. In walking from here to there, I use many perceptive, active, and self-directive powers, often unconsciously, sometimes consciously. All life lives by using its many perceptive, active, and self-directive powers, such as they may be, in manifold variations on these moves.

[86:] All living organisms exercise three functionally distinct but overlapping powers: a perceptive power, which acquires information about circumstances, about the organism and its field of agency; an active power, which can alter, within limits, both the organism and its field of action; and a self-directive power, which uses feedbacks to guide the perceptive and active powers purposively. With these three powers, organisms recursively use their agency, repeating themselves over and

over with cumulative variations, to maintain themselves as living agents as best they can.

[87:] Additionally, each organism has a field of agency, its circumstances, which correlates with its perceptive, active, and self-directive powers, for all organisms live Kantian lives, busying themselves within the limits of their possible experience. Hence, their circumstances fit their powers like a glove. Agency takes place from inside the self within its field of possible perception, feasible action, and its repertoire of feedbacks useful for self-direction. The rest remains moot. All organisms exercise their powers of perception, action, and self-direction, seeking to initiate and control the eventualities of their lives. The organism, as a self, serves a purpose, not a final purpose, but a necessary one: self-maintenance as a living, self-maintaining organism in the world, a totality that encompasses the organism, its field of agency, its possible perception and action, and whatever else may lie beyond those.

[88:] Note here that the domain of experience — the field of agency — takes place within a larger, encompassing world, one beyond the agent's ken. Each form of life inhabits a cosmos defined by the sum of its perceptive, active, and self-directive powers, with its peculiar cosmos surrounded by an unknown chaos that can suddenly irrupt into its world. These irruptions include unforeseen events, things that seem to happen relative to agency by sheer luck, good or bad — their advent in our world provides a presence to that which we have no power to possibly foresee. Such irruptions include

death, with the last flicker of agency expiring, expired, slipping into the realm of nothingness, which takes place all around the living yet remains unknown to them, despite the huge totality of their cumulative experience. But to balance death, the irruptions further include natality, the advent of a new life taking place, a new self with its new circumstances, a novel, unique locus of experience. All these irruptions have much to do with shaping life and lives, but they do not constitute formative experience, which takes place as agents act in their circumstantial fields of life.

[89:] To find formative experience, we can and should think about the different lifeforms as they parade along the ever-changing. evolutionary path. Great changes in the field of agency have taken place. Through the slow, ongoing process of evolutionary emergence, the morphology of living forms alters through chance genetic change, tested by environmental pressures. With each morphological alteration, perceptive, active, and self-directive powers, and the associated fields of agency, all change as well, challenging the novel organism with its characteristic tasks of self-maintenance. Evolutionary change in the morphologies of life has gone on for several billion years, with life itself, as a totality, flourishing in a multitudinous differentiation of its perceptive, active, and self-directive possibilities. Untold types of organisms have formed, each comprising a myriad of instances leading specific, unique, and finite lives, using distinctive perceptive, active, and self-directive powers to doggedly extend and maintain its possibilities of experience. In all this vital experience over eons, how does

formative experience come about and what does it contribute to the panorama of life?

[90:] With each evolutionary change, new patterns of perceptive, active, and self-directive power emerge; and whenever one does, the new pattern itself then remains largely stable across the succession of separate lives within each different species. Keeping environmental factors constant, the genetic inheritance of each species establishes what the specific organism can perceive, how it can act, and its capacities for self-direction. A cat lives its life perceiving its circumstances as a cat, acting in its circumstances as a cat, directing itself in relation to its circumstances as a cat, all through its recurring use of the perceptive, active, and self-directive powers that it acquired through its reproduction as a cat. The process of its biological reproduction essentially fixed its field of agency.

[91:] Humans, too, live as a distinct lifeform. Each of us inherits perceptive, active, and self-directive powers characteristic of our species, but the way these work for humans has one very significant difference compared to most other forms of life. Out of the sum of our inborn perceptive, active, and self-directive powers, a fourth power comes forth through an emergent process, a formative power. With this formative power, humans selectively alter their inborn perceptive, active, and self-directive powers and use cultural, not biological, means to distribute and perpetuate these alterations in and among their members. In our human lives, after conception, we fashion and use our formative power to

transform our inborn perceptive, active, and self-directive powers, over time profoundly changing our world of agency and experience.

[92:] In a sense, the mortality of every living agent gives life, the sum of living forms, its recursive capacity. Genetic reproduction gives all life forms a recursive capacityr as natural selection culls chance variations in genetic inheritance across the recurring sequence of generations. Among humans, cultural recursion speeds up and diversifies natural recursion greatly, using cultural memory in the place of genetic inheritance to power the recursive sequence. This capacity for cultural recursion enables human life to invent a panoply of nascent capabilities, using each over and over again, capturing nuances and innovations, churning them into the mature capacities of civilized life. With both its natural and cultural recursive abilities, in endless variations, life itself creates and maintains itself in a universe that without its teeming intentions would be entirely dead, meaningless, devoid of value.

[93:] Humans form our perceptive, active, and self-directive powers and thus shape the circumstances within which we conduct our lives. We devise eyeglasses, bicycles, clocks, and countless other aids to perception, action, and self-direction with our formative power. It enables us to transform our perceptive, active, and self-directive powers throughout our personal and collective lives. Unlike the cat, which will always see the world through the perceptive powers acquired in its birth as a cat, humans work to shape throughout our lives our

perceptive, active, and self-directive powers, greatly transforming our capacities during the course of our lives, personal and public.

[94:] Through formative experience humans have contingently gained the art of acquiring characteristics. We have acquired formative powers with which we shape our perceptive, active, and self-directive powers, each separately, and the formative power comes with no guarantee that in using it we will keep the new perceptive, active, and self-directive capacities in effective coordination. Over several millennia humans have formed massive active capacities, using them at accelerating rates. Hence, our human shaping of our circumstances has begun to transform the hydrologic and atmospheric balance of the earth itself. Have we formed our perceptive powers concomitantly so that we can track and understand the consequences of our escalating scale of action on the world in which we live? And even more, have we adapted our collective powers of self-direction so that we can cope adequately with the unintended consequences of how we live? Have we formed the perceptive, active, and self-directive capabilities requisite for continuing self-maintenance in our world? As we change our circumstances, we change those of other lifeforms and — portentously — the way the world may work, in itself, beyond our ken. As we change our circumstances, we invite irruptions into our cosmos with which we may be unable to cope. We strengthen the formative imperative, we expand and intensify it. In this juncture, with stakes so unprecedented, and soaring further, what can and should we

make of ourselves in order to act justly in our changing world? How should we form ourselves to provide for our continuing self-maintenance?

[95:] Formative experience takes place as persons use their perceptive, active, and self-directive powers in interaction with their circumstances to recursively alter those powers and the way they can interact with their circumstances. In caring for my formative experience, I must consider many possibilities, especially as I live in a universe of very complex cultural circumstances. As I select among these possibilities, I shape my capacities as an acting agent and delimit the world of action in which I can use them. These life choices confront me with basic, unavoidable problems of acting justly in my formative experience. I must use my perceptive, active, and self-directive capacities in conducting life but in using them, I must also attend to how I can and should form those capacities, sustaining, strengthening, augmenting, and modulating them, changing myself and the world in which I act. Causes and interactions work pervasively, side by side, in everything that happens.

[96:] Our formative power uncovers a deep duality in how humans construct their experience. which makes formative justice rather special. Almost instantaneously on the timescale of biological evolution, the human exercise of formative powers has become so pervasive in our life world that almost all our intending has deeply formative dimensions. With the emergence of our formative power, we can and should attend in everything we do to doing it causally, producing the intended effect, and to doing it formatively, controlling how the cycles

of interaction that take place form our powers of perception, action, and self-direction will affect our capacities or self-maintenance. Consequently, since acting justly in a formative sense seems to pervade everything, we have difficulty seeing it as a distinct type of justice and we easily leave it unexamined, attending to the more easily identified valuations in our experience.

[97:] For instance, in the capabilities approach to questions of distributive justice, critics ask whether people have fit opportunities to acquire the capabilities and capacities requisite for a minimal life of human dignity. The capabilities approach and formative justice complement one another highly, for both attend to human capabilities and capacities as the foundation of the good life for persons and polities. The capabilities approach looks at property in its basic human sense, the properties or capabilities characteristic of flourishing human lives, seeking to identify those properties clearly and to establish the degree of equity in the distribution of them within and among different polities. Formative justice concerns the same phenomena, considering them as a developmental, not a distributive matter. With formative justice, capacities are not observed as external, observable conditions, but as processes of internal, intentional self-formation. Instead of concentrating on the inventory of capabilities that people might possess as attributes, formative justice addresses how persons can and should nurture the capabilities they want and most value. Persons try to live their lives justly, forming themselves by seeking to flourish as they winnow their

possibilities and direct their efforts in their circumstantial lifeworlds. Formative justice helps them manage the process.

[98:] People form their lives by determining strategies of self-formation, intending to perfect potential capacities through recursive cycles of experience. They find in the process that they are shaping their capacities for perception, action, and self-direction. As they restructure their possible patterns of purpose, powers of attention, discrimination, energy, skill, affinity, and effort change, building up or contracting, as the case may be. Our living takes on a deep duality. Everything has in view both practical and formative ends, which carry with them a concomitant practical and formative norming. Because the formative side of all experience pervades so much in our lives, formative justice stands as the pre-eminent problematic of living justly. But at the same time, because the formative pervades everything taking place as a person tries to act justly, we easily fail to give it its distinctive due. As we have seen, people have advanced extensive literatures on distributive justice and social justice, and a substantial one on retributive justice, and growing ones on ecological justice and intergenerational justice, to name a few. But where can we can find literature on formative justice?

[99:] For each type of justice, thinkers have conceptualized a field unto itself, but each kind of justice links to historical eventualities which evidence the consequence of formative justice for human life. For instance, people have shaped through great formative effort in historical life the goods and services, which they have distributed

among themselves according to prevailing ideas about distributive justice. They value the goods and services largely because they provide the human means — building materials, eyeglasses, microscopes and telescopes, plumbing, collections of specimens, assays of ores, wheels, motors, cars, and planes, computers, standards for endless manufactured objects, pharmaceuticals, legal codes, and so much more — for forming our perceptive, active, and self-directive powers. Copyright and patent law structure special forms of distributable property explicitly to provide temporary incentives to create formative intellectual and material resources. With such arrangements, people have tried to create distributive incentives to advance formative values, but such efforts should provoke us to ask whether markets and other systems of allocation currently work in formatively sound ways?

[100:] Likewise, the matters at issue for retributive justice and social justice, for legitimacy in legal and political life, all have great formative significance for persons and polities. With these specific problems of justice abstracted away from the elemental issues of justice, attention to the original, most basic difficulty in acting justly, which Plato examined quite fully in the Republic and his other writings, has become blurred. Reflection keeps subtracting specific parts away, but what remains of the overall problem of justice, deciding what I can and should make of myself, has vital importance, even though it has become relatively obscure. What remains of justice, after people have abstracted the specific types

of it away, lacks a proper name. To bring the root of justice back into prominent view, the basic problem of acting justly — a person or polity controlling their activities of self-formation, having to decide how to form their perceptive, active, and self-directive powers in living a self-directed, autonomous life — should get a name: formative justice.

[101:] Principles of formative justice regulate, implicitly or explicitly, activities through which persons and polities shape their perceptive, active, and self-directive powers, and with those, the fields of agency within which they live. Persons and polities determine their controlling purposes, intentions, potentials, and possibilities, and shape the capacities with which they can pursue their intents by forming their powers of perception, action, and self-direction. As situations merit, other forms of justice come into play within the overall, on-going context of formative justice. But these problems of formative justice still suffuse our lives, from start to finish.

[102:] 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 justice in all its forms, 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 limitation they always face. With limited attention, intelligence, and energy and with excessive urges, desires, needs, and aspirations, people bring all

the possibilities they can to the fruition they manage to achieve. Hence, all people all the time must choose as justly as they can while self-organizing their lives. Within that comprehensive effort at acting justly, formative justice denotes the way persons control their self-formation, their efforts to shape their perceptive, active, and self-directive capacities and their concomitant life world. With formative experience having become pervasive in human life, the challenge of self-formation inheres in nearly all we do. Hence, we concentrate attention on acting justly in these aspects of life by advancing a name, formative justice.

[103:] But a name does not itself explain how the named process actually works. The name helps concentrate our attention on the aspect of experience, but a name does not magically incant what it signifies, conjuring it forth in substantive experience, fully mature, as if from the head of Zeus. How do people actualize and exercise formative justice in their lives?

4 The Work of Formative Justice

[104:] Although some forms of justice appear primarily as collective concerns, all problems of justice have both personal and public manifestations. In discussions of distributive justice, thinkers treat it as the paradigmatic form of justice and a pressing public problem: how should the members of the community best satisfy their competing claims for its goods and privileges. But distributive justice operates on the personal level too, evident whenever a person must budget her money for desired products and services. Who has not found it difficult to decide equitably between satisfying an immediate want and providing for an eventual need?

[105:] Likewise, we think of retributive justice as a public form of justice, but it 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 when a person feels conflicting obligations. Reminding herself, "do unto others as you would have them do unto you," she wonders whether to finish her homework or to practice with the team?

[106:] When we think of formative justice, however, we often think first, not of its public side, but of its personal aspect, aware when pushing ourselves that our acquired skills may not suffice for the challenge at hand. But formative justice has a social side as well, as groups, organizations, and whole polities must select among possibilities, thereby setting their priorities for formative effort and action. In 1780, writing from Paris to his wife,

John Adams expressed the juncture of the political and the personal imperative, describing formative justice for the new nation as a felt, 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.... 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.[5]

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

[107:] Long ago, 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 it was better "to act justly and to practice honorable pursuits and to be just, whether anyone is aware what sort of person one is or not" or "to do injustice and

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[5] John Adams to Abigail Adams, Letter CLXXVIII. *Letters of John Adams, Addressed to his Wife*. Charles Francis Adams, ed. (1841) vol. II, pp. 67–8.

be unjust, if only one can escape punishment" (IV: 445a, cf. II: 367a-369b, IX: 588b-592b). 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. Plato suggested that 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 (II: 368e-369a).

[108:] Let us grant that Plato's language, however artful, expressed a very early effort to analyze what we here call formative justice. When a thinker breaks new ground, anticipating all the possible misunderstandings proves impossible. Hence, parts of Plato's 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 polities, about how persons and polities formed their unique capacities within the domain of each capability, and about how persons and polities could and should put their emerging 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 can identify those aptitudes well until the person has completed a full course of forming what her possibilities can and should be.

[109:] Plato recognized that prospectively no one knows the actual aptitudes of a child or person, for an impenetrable veil of ignorance existentially cloaks the apti-

tudes. This ineluctable ignorance — an existential reality — posed a challenge, Plato thought: to find out the capacities of the members of the polity, each man and woman should strive to form their human capabilities as fully as possible, supported by the whole community. This remains the fundamental rationale for universal education. At birth, the infant has nascent perceptive, active, and self-directive powers, but neither the infant, nor anyone around him, knows what his capacities, fully expressed, can of should be. To discover them, the infant must form his capacities as fully as he can, aided and abetted by the polity in its many forms — family, community, creed, business, state, and profession: Plato advanced the rationale, both prudential and ethical, for expecting all persons to optimally form all their possibilities, with fulfillment the hypothesized standard for approximating the optimal.

[110:] Persons have aptitudes, but to speak more accurately, persons form their aptitudes. Consequently, neither the person nor their parents, nor anyone else, can fully identify those aptitudes, for only extended self-education and formative experience will disclose and perfect them. A person's genetic inheritance endows her with complex perceptive, active, and self-directive powers, which themselves take on a unique embodiment through her interacting with her circumstances, constantly throughout her life. And that process takes place, not developmentally, but formatively — for instance, starting in infancy, a person recursively uses an inchoate power of vision to adapt and regulate her ability to see, but then she may sharpen it further with

glasses and possibly extend it for special purposes with a magnifying glass, binoculars, microscope, or telescope, or fix it with cameras of diverse sorts, or the artful strokes of paint and brush, capturing visual memories and the humane nuance of what she sees. People do not have aptitudes as fix properties or endowments; their aptitudes emerge as formed achievements, evident in retrospective views on lives lived.

[111:] Potentialities rest, a bit inborn, hidden within, and they await, yet to emerge, for each person must form them over her entire course of life, exercising her formative power. Person-to-person, the course of it varies greatly and unpredictably. Some soar and plateau, others plod along and bloom late; some die far too young, others persist long beyond their prime; some deliver exactly as they aspired; others zigzagging, confound all expectations. Indeed, an opaque veil hides capabilities from view, blocking modern testing services from satisfying their prurient interest to peek beneath it. Heraclitus said it long ago: "You will not find out the limits of the soul by going, even if you travel over every way, so deep is its report."[6] Given that we do not know, to find out what a person can and should be, she must work to form her capacities as fully as she can. A person does this by guiding her efforts, explicitly or implicitly, through the continuous, inward consideration of formative justice, seeking to do justice to what she can and should become, fulfilling herself as best she can.

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[6] Heraclitus, Fragment XXXV. Charles H. Kahn, trans., *The Art and Thought of Heraclitus*, p. 45.

[112:] Aristotle followed Plato, 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 advanced their capacities for pursuing their purposes together. This view of politics was one in which the 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. But Aristotle came a bit late and as a pressing, historical matter, justice — formative or distributive — was losing 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 turned producing and consuming into the core function of modern polities.

[113:] With ancient imperial systems, syncretism — think and believe what you will, but obey — guided formative justice for the polity. For the person, attention to things in one's control and indifference to things not in one's control became a central preoccupation for both Stoic and Epicurean. The slow conversion of that pagan ethos to Christianity, and then the rise of Islam, demonstrated the historical power the personal pursuit of formative justice could generate. Everywhere, the history of formative justice as pursued by innumerable different persons tells an extraordinary story of human experience, which we have yet to grasp sufficiently as an account of humanity's collective self-formation, what

persons themselves have made from what they could and should become.

[114:] With multitudes of persons in modern polities, politics as the shared pursuit of the good life became harder to fathom, or more precisely, people spontaneously adopted material abundance as the common denominator of the good life and began to bicker over how to share the goods. They brought interest group politics to the fore, redefining Aristotle's politics, not as a shared pursuit of the good life, but as a pursuit of the goods, a competition over "who gets what, when, how," as Harold Lasswell put it in an influential formulation.[7] In diverse ways, modern political economy made contending ideas of distributive justice central in both political theory and practice. As part of that process, the Platonic conception of justice, what we here call formative justice, was largely ignored, even actively suppressed. To renew attention to formative justice, and to understand better how it works, let's look at an example to distinguish as clearly as we can between the two types of justice. Can we observe both distributive and formative justice working simultaneously, yet clearly distinct?

[115:] 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

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[7] Harold D. Lasswell. Politics: Who Gets What, When, How. (New York: Meridian Books, [1936], 1958).

their analyses. For instance, with football, be it global or North 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.[8]

[116:] Consider these matters from within the tiny universe of a team, as if it were a microcosm isolated from the world around. The front office meets out distributive justice as best it can, using largely meritocratic theories of equity to negotiate salaries and other terms of player contracts. We will not dwell on the equity of those salaries, compared to mine and yours, for that raises larger, more comprehensive issues. But simply in the tiny world of the team, the suits in the front office apply distributive justice to set and justify differentials in compensation and other contract terms.

[117:] 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

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[8] This and the following 4 paragraphs expand material in my previous discussions of formative justice — Homeless in the House of Intellect (New York: Collaboratory for Liberal Learning, 2005, pp. 81-2) and "Formative Justice: The Regulative Principle of Education," Teachers College Record, Volume 118 Number 10, 2016.

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 management distributes its resources well, the team, its officials, players, and fans may happily thrive. But will they do so? That question leads to activities guided by formative justice.

[118:] 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, all in harmonious unison — together play their parts.

[119:] 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 whole team 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 proves 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.

[120:] 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 like utility, equality, merit, need, or fairness. Thus, the results of distributive justice will vary according to the concept of equity people apply, but each instance of distributive justice orders the distribution by satisfying abundant wants with scarce goods according to a specific criterion of choice, one or another idea of equity.

[121:] Formative justice does not guide the distribution of goods; distributive justice does: formative justice works as a different, distinct form of justice, a considerably more comprehensive one. Like other forms of justice, it has several component parts, which the acting agent deploys according to formative, not distributive,

criteria in seeking to approach its goal. Plato expressed his theory of formative justice, simply as justice in general, because the problematic of formative justice arose with every intention: how does doing what one proposes to do affect the ongoing forming of one's capacities for perception, action and self-direction? And it still arises with any intention. Let's loosely follow Plato's description of the human soul (Republic, IV: 435a-441c, IX: 580b-583a), using our own, more present-day language.

[122:] Formative justice pertains, not primarily to intentionality in special situations, but to all purposeful activity. As an intentional agent, a person always existentially experiences three basic sets of questions:

- Would carrying out her purposes, culminate in what the person really seeks? Would her actions lead to the optimal formation of what she can and should become? A person reasons about causes and effects and tries to understand complicated reciprocal interactions. With these intellectual concerns, a person seeks to make sound judgments about her purposes. She postulates many possibilities, assesses them for feasibility and worth, progressively eliminating those that seem too risky, too high in costs, too low in benefits, unfit, unworthy, inappropriate. The possibilities that persist contribute to forming her as a person, shaping her capacities and the values she serves with them, her sense of mission or vocation in living her life.

- How will the person modulate the effort she devotes to her purposes relative to the sum of her other intentions? A person exercises intentional control through her emotional weighting of purposes, amplifying some, weakening others. As her experience unfolds, a person shapes her disposition and emotional character, her preferences and aversions, her interests and the flux of her attention, which enables her to direct her energies. She does so as her emotions dampen and amplify perceptions, actions, and self-directions from within and as she invests external situations and other persons, organizations, and ideas with special valence, positive or negative.
- How will the person marshal and exert her perceptive, active, and self-directive powers in the immediacy of her experience, doing what she does to fulfill the complex flow of her intentions? A person lives her experience, a vital actuality. Words describe the immediacy poorly, for the words come after the fact, when the immediacy has flown away. A living person dynamically instantiates her perceptive, active, and self-directive powers in a treadmill of actual presents, here-now and then irrevocably past. All the capacities of a person stand imminent in every instant, and she unleashes them, singly and in combinations, continuously, kaleidoscopically organized, as she lives in her

circumstances, living her life. Can felt immediacy both be, and be named? Plato tried — the appetitive. Let us try instead, the existential actuality of volitional will. It generates the intensity of playing the game.

[123:] For Plato, to live justly a person could and should have a well-shaped power of judgment, rightly formed, and tamed appetites integrated by the idea of the good. Stated in this manner, it sounds as if Plato was aiming at some static quality, a person who had a well-formed character, secure in its possession. That was not the case for the integrating had to go on continuously, in real time, so to speak, as the person experienced all the uncertainties, the vicissitudes, the successive moments of her life.

[124:] Formative intentions suffuse our lives. Each of us continually copes with the intellectual, emotional and existential concerns inherent in all we do. Objective sounding declarations, asserted in public about what is rational, emotionally sound, and existentially worthy, at best state the lived answers second-hand, as they appear in hindsight. More dangerously, pretentious objectivity often proclaims difficult imperatives in bad faith, cloaking a speaker's parochial preferences as objective necessities valid for all. Our thinking, feeling, and existential drives take place, not in words, but in deeds, in actual experience. As a person actively conducts herself, on large matters and small, she integrates the intellectual, emotional, and existential, thereby forming her life, and her capacities for living, through a purposeful enacting — ever-turning, kaleidoscopic.

[125:] Only in hindsight can a person perhaps know the intellectual, emotional, and existential actualities that took place; and in hindsight the picture will have become inert, no longer helping us query our prospective possibilities. To consider looming possibilities and to deal with formative experience intelligently, a person must take them up as existential questions, ones lodged in the living present. She must think about them on her feet, determining her answers to her formative choices while striding through the immediate indeterminacies of her life. She must live the questions and suffer the consequences, or as Plato put it in the Myth of Er, as the souls were about to choose their future lives —

> Virtue knows no master. Your respect or contempt for it will give each of you a greater or smaller share. The choice makes you responsible.[9]

[126:] Of course, Plato here and elsewhere spoke of arête, perhaps more accurately translated as excellence or merit. No teacher or owner possesses arête as someone might possess a car or some clothes as his property that he can transmit to another. Each person achieves her arête by aspiring to it, pursuing in life the merit it denotes. A person lives, dealing with the experiential actuality of her will, continuously prompting and following through in real time drawing on intellectual and emotional abilities by using inner senses. A person feels an inner sense, usually feeling it immediately, sublimi-

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[9] Plato, *The Republic*. Tom Griffith, trans. X: 617e.

nally, even though she can rarely pull it into consciousness, and then often at a cost to its efficacy. We have difficulty speaking clearly about inner senses, sometimes speaking as if we have many different inner senses, each associated with a specific aspect of experience, and sometimes as if we have very few, general ones, like emotion and appetite, which we adapt to different situations, rather like passing different parameters to an algorithmic function. Let's leave the typology of our inner sense as a moot matter and proceed here to think about how we work with our inner senses in the intellectual, emotional, and existential domains of formative experience. "Where words fail, deeds speak."[10]

[127:] To start, take a simple example, a person's sense of balance, more precisely her ability to sense her imbalance. She cannot assume a pose of perfect balance that a maître de ballet might instruct a ballerina to assume and then hold, remaining rigidly still. That stillness is merely appearance. Balancing requires continuous movements around an ineffable, unattainable point of balance. A person maintains her balance by sensing how her stance diverges from it, moving to cancel out the divergence. A ballerina, who has acquired exquisite body control, may create an illusion of having struck, en pointe, perfect balance, but really, she too hovers around that point with tightly controlled motions, imperceptible to onlookers.

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[10] Goethe, *Wilhelm Meister's Apprenticeship*, Thomas Carlyle, trans., "Indenture", end of Book VII.

[128:] We can take advice in forming an inner sense like balance, but we can't be taught it passively, for we must learn it by inwardly modulated trial and exercise. To consider how it happens, let's watch the toddler again. She often falls, and in doing so she will begin to sense her inner sense of balance. It does not say, "Hey, girl, right on!" It signals only when she has tipped out of balance, quickly giving her some time to react, which at first will be hesitant and clumsy, or too fast, a sudden jerk that puts her butt down. But through recurrent trials, through recursive experience, she will gain confidence and coordination in responding to her sensing her imbalance and compensating for it. With her inner sense of balance well established, every anomalous move she then makes adds another iteration in her recursively managing her balance, and soon she no longer toddles, but runs and jumps about, a rambunctious child.

[129:] With the sense of balance, researchers have acquired a pretty clear understanding of how it works and how people use it. With many other inner senses, we have little or no understanding of how they work physiologically and neurologically, and often we have limited and unsure capacities to use them. Nevertheless, we find ourselves aware of such senses, we actively try to use them, and we trouble ourselves to clarify and form them so that we can use them in experience with more fulfillment. For each sense, we postulate a hypothetical condition or virtue, an ideal good, which we never securely and fully incarnate. Have I donned clothes too casual, too formal for the occasion? Do the

colors clash? Did I salt the dish too heavily? Have I been too harsh? Too acquiescent? Too forward? Have I tried too hard? Or not hard enough? Speaking rather generically, we might say that with any inner sense we actually sense deficiencies, an excess, an anomaly, a deviation relative to its ideal state and in sensing this, we can work to compensate for it. True, we always over or under compensate, and the approximation to the norm goes on recursively, cumulatively strengthening our capacity to use the inner sense in our experience.

[130:] Diverse inner senses pertain to our perceptive, active, and self-directive powers, or to newly formed combinations of them, and the recursive strengthening of our skill with them drives the formative power spoken of earlier. In carrying out this formative effort, people have created and employed powers of inductive and deductive reasoning about their experience, which become part of our acquired heritage. To see how voluminous such advice can become, check out the literature on playing golf or chess. But the formative power, itself, becoming skillful in playing the game, arises personally and historically from the recursive ability to expand and perfect the variety of inner senses, informing them with good tips and insights, but, as we say, "making it our own." How?

[131:] Practice makes perfect because forming an inner sense requires its frequent recursive use. We sharpen and empower the sense by using it, over and over again. Behavioral assessments of practice and the formation of habits really offer a blunt, external way of talking about

inwardly recursive self-formation. Let's venture to define an inner sense conceptually.

> An inner sense postulates a hypothetical equilibrium point of one sort or another, or a set of such equilibria, with reference to which an agent can sense a deviation, an excess or deficiency, enabling her to act in ways that affect the equilibrium and to direct her action to oppose the disequilibrium. A person forms her capacities through recursive repetition in which the interplay of inner sense and self-correction leads to progressive self-fulfillment.

With this definition in mind, let's exemplify the processes of recursive self-formation in an example, following it through a series of significant formative transformations.

[132:] My parents thought learning to play a musical instrument should be an important part of my education. When I was 6 or so, they let me choose the instrument and they would see to it that the lessons would follow. I chose the guitar and the lessons followed, disclosing that I had a sense of rhythm but no sense of tone, a very tin ear. I lacked an inner sense of what to expect when I picked different strings. Hence, for me practicing scales was repetitive but not recursive: anomalies as I picked away were essentially meaningless, or more precisely for me I didn't perceive them and the whole exercise was hence bore-ring! My friend, however, had a good musical sense and for him practicing scales became interesting — not merely repetitive, but recursive. Recursive practice allowed him to perfect his basic skills with

the instrument by pondering all the little anomalies that he heard while going up and down the scales. Doing so, he acquired elements of a personal touch, his facility and style with the guitar.

[133:] Now let's take it up a notch. Not my friend, but others not unlike him, became truly good musicians, largely self-formed using their inner sense, studying the blues and other kinds of jazz, going amateurishly pro, starting to perform a confection of new and old styles, doing so in social settings in which the blues guitar had thrived. That was the acoustic guitar, which they had learned in recursive play, knowing and loving its subtleties and sound. Others like them, more interested in sound for its own sake, rather than particular forms of music, had begun using new electronics, making synthesizers, and they started to wire guitars for electrical amplification and modulation, innovations at first resisted by the young musicians of rising fame. But their rising fame was drawing those young musicians out of the small, enclosed performance settings like the Reeperbahn clubs into the great halls, stadia, and Woodstock fields, playing to an ocean of upraised arms in rhythmic undulation. Here, when ecstatic swaying paused, and each turned inward, quiet, to listen, to feel, and to think, an acoustic guitar played into a microphone remained of use for the ever-recurring singers of tales. But for rockers like Eric Clapton, Keith Richards, or George Harrison, gifted with their inner sense of sound and dexterity with the strings, the electric guitar became the defining instrument forming the British wave of 60s rock experience.

[134:] Now later, some of the aging greats play on with performing energy, now classic, having evidenced lives more varied and complex than the beat of their music and its aura alone. Their memoirs depict lived lives of tumultuous intellectual, emotional and existential experience, full of changes, different friendships, interests, infatuations, commitments, anguish, celebrity, boredom, cultural and pharmacological experimentation, money, much sex, some love, an almost desperate cascade of self-formations. They pursued formative justice, continually trying with thought, feeling, and will to integrate experience, a chaos of experiential possibilities, directing themselves in creative self-maintenance as best they could. Some achieved it surprising well. Others cracked up. For those still going, pursuing formative justice remains integral to living their lives and it will stop only when others pronounce for them, "It is done," "Consummatum est."

[135:] Most of us follow less turbulent courses of self-formation guided by formative justice. But we all live our lives forming ourselves continuously, making judgments about formative justice, winnowing our numerous possibilities down to the particulars we live. All persons quite spontaneously think a lot about formative justice. Alone and in conversation, all persons reason, personally and collectively, about whether their ostensible purposes will really yield what they want and aspire to. They also chronically consider their emotions, how they correlate 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, all persons strive, consciously and unconsciously, to shape the capacities through which they can realize their purposes — talking to others, reading, studying, observing, thinking, planning, and practicing. Colloquial speech captures these engagements with formative justice. 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!"

[136:] Assessing purpose, directing volition, and building capacities so pervade our lived lives that we continually engage in them without explicitly attending to them. But should a spontaneous pursuit of formative justice suffice? What implications do our reflections on formative justice have for the more explicit practice of education, of self-formation in our world, for helping ourselves and those around us form ourselves aspiring to what we can and should become?

5 An Educational Inner Light

[137:] Formative justice has important implications for the practice of education, both for the person and the polity, but we can easily misconstrue them. “The practice of education” will call to mind schools, teachers, curricula, tests, yellow school buses, and arguments about taxes and administrative control, even paeans to the magic of the market and sage warnings that the state of education sorely threatens the nation's survival. But we will not grasp the implications of formative justice for educational experience by thinking first about all those concerns. Declaring them a distraction may evoke a sense of disappointment: if formative justice does not first and foremost concern these matters, why bother with it? Let's find out.

[138:] Nearly 400 years ago, the Moravian priest, Johann Amos Comenius, wrote The Great Didactic, a wildly visionary work given the practices then prevailing. As its subtitle promised, it set forth —

> the whole art of teaching all things to all [persons] or a certain inducement to found such schools in all the parishes, towns, and villages of every Christian Kingdom, that the entire youth of both sexes, none excepted, shall quickly, pleasantly, & thoroughly become learned in the sciences, pure in morals, trained to piety, and in this manner instructed in all things necessary for the present and for the future life, in which, with respect to everything that is suggested, its fundamental principles set

> forth from the essential nature of the matter, its truth is proved by examples from the several mechanical arts, its order is clearly set forth in years, months, days, and hours, and, finally, an easy and sure method is shown, by which it can be pleasantly brought into existence.[11]

A 17th-century religiosity notwithstanding, The Great Didactic describes the institutional structures, the curricular contents, the best pedagogical practices, and the socio-political rationale of present-day instruction from preschool through the universities around the globe. The Great Didactic was the mother of all pedagogical prescription.

[139:] Although Comenius appreciated the importance of the inner life of students as the locus of motivation and understanding, he concentrated on externals, what teachers could and should do to facilitate learning by their students, how to structure comprehensive knowledge so that it would fit their interests and capacities at each stage in their self-formation, how to group students, manage their time, and organize their activities, engaging but not exhausting them. So long ago, yet so up-to-date: "one man excels another in exact proportion as he has received more instruction" (p. 208). Globally, people now expend trillions annually on the Comenian educational vision, the great race to the top; a billion or so children, youths, and adults labor in its embodiment, and their work preserves, disseminates,

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[11] John Amos Comenius, The Great Didactic . . . (M. W. Keatinge, trans., 1896). Title page. (Capitalization normalized).

and extends the human capital requisite for modern life. How can formative justice be educationally important and not concentrate on these institutional realities? Education consists in what the Comenian system does. Or does it?

[140:] Our pedagogical world seems to have become a Great Didactic. But a spectral education haunts its thought and practice, the specter of statistical abstraction. The actions of instructional bureaucracies mold abstract constructs labeled "pupils" and "students." Governments compile "the key indicators of the condition of education." Even the activities of child-centered pedagogies get implemented and validated through their evidenced effects on conceptual abstractions. All track how impersonal interventions affect statistical cohorts, ciphers whose only reality exists in data collection and its analysis by bureaucrats, academicians, and public officials.

[141:] Around the world people have constructed a vast pedagogic structure, a dehumanized apparatus that will eventually pass away. But it will persist, well meant, for many generations yet to come and like other salvational bureaucracies, it will require everyone to contort their personal lives into the categories the system mandates. For many, the Great Didactic provides benefits, perhaps to a meet measure. Nevertheless, the Great Didactic does not encompass all the educational experience of any person, and perhaps not what will prove most important to her. Looking at educational experience as phenomenological, first-person experience, clearly much of it takes place outside of the Great Didactic, and

many of the tangible benefits for the person that seem associated with the Great Didactic may emerge, not because of its actions, but interactively, with or despite them. To grasp the meaning of formative justice in educational experience, we must interpret what takes place, not by aggregating surrogate outcomes of the system, but by following the cumulative life experience of the person.

[142:] Control, self-formation, and formative justice work reflexively, coming from the inside out, and recursively, as a person's nascent capabilities draw themselves into her emerging capacities as she uses them recursively, guided by her inner senses. The significance of formative justice for education does not primarily involve changes in the Great Didactic, the organizations, programs, and conduct of formal instruction. Formative justice calls for a reformation, an awakening from within the person, each recognizing herself from birth on as her own mistress, inspired by a zest for life, forming her inner senses, and the capacities they guide, constantly through her recursive use of them.

[143:] Throughout this essay, we have sought to think about education and formative justice from the point of view of the person living her life. Education takes place in her experience, not in the Great Didactic and not structured behaviors carefully counted and aggregated into depersonalized cohorts. The Great Didactic constitutes a presence in a person's circumstances as she engages, life-long, in forming herself, but only a presence among many others. As she forms herself, people and programs in the Great Didactic may help her some and

hinder her some. Under present-day conditions, she will spend a substantial time experiencing its routines and rituals, possibly bringing them to life, possibly enduring them in passive boredom, quite subversion, and on occasion active opposition. The Great Didactic itself has limited power to determine what she will make of it. Even if she has leaned fully into the world of instruction, as pupil, student, professor, parent, and public leader, it will remain a partial, external circumstance in her pursuit of formative justice.

[144:] But why make a big deal of this Great Didactic? What harm comes from making education a tidy segment of experience, like work, so many hours per day, 5 days per week for a big part of each year from two to twenty-something? Don't we post-moderns feel, “Hi-ho, that's life, a series of fragments.” Indeed — often, we do think about life that way, compartmentalizing, but it's mostly self-deception, for we cannot pigeonhole our educational work into one compartment and live the others as if they were free of formative experience. How can we earnestly talk about equality in education when everybody systematically ignores the substantive experience that different children pursue outside the Great Didactic?

[145:] Certainly the Great Didactic has importance and will not go away. In view of that actuality, how should we rethink the realities of educational experience that persons have? We do not seek to deschool society in a reprise of Ivan Illich. We can and should examine what we understand education to be in the light of formative

justice and see how that might change what we expect from the system of programmatic instruction. To take formative justice seriously, we will understand that the verb, to educate, denotes a process of reflexive activity, namely, the efforts through which a person, from infancy on, continuously forms her perceptive, active, and self-directive powers. We generate nonsense by treating a person's experience as if it takes place in and through the activities of the Great Didactic, homogenizing her experience as a "learner." Instead, should we not situate the activities of the Great Didactic more helpfully within the experience of the self-forming person?

[146:] To do so, we can and should examine basic assumptions about education. If the person in pursuit of formative justice weighs her possibilities according to an inner sense of fulfillment, taking her drives, emotions, and reasoning into account within the unique contexts of her circumstances, what assumptions should educators make about how instructional programs and institutions can best support her efforts? Do the causalities presumed to work as the Great Didactic marshals its prescriptive processes, causalities that operate on, not through the person, make real sense? In economics, many critical economists question the assumption that living participants in markets conform sufficiently to the expectations of rational choice theory for classical expectations to have sound predictive value. In like manner, let us ask, in the Great Didactic, do assumptions about the "learner" make any more sense? Perhaps even less? If the controlling assumptions in the Great Didactic over-estimate the docile

plasticity of learners and the causal power of sound teaching methods, then the didactic power of the system will systematically fall short of the expectations associated with it. Is that not why the macroscopic performance of the working systems strikes proponents and critics alike as so poor, so disappointing, so dangerously insufficient?

[147:] Within the Great Didactic and outside of it, would be educators can and should recognize that they serve persons who possess autonomous wills, independent minds, and active powers of judgment. To type them as learners or as teachers makes no sense. Each person, no matter what her age may be, continuously makes judgments about formative justice. Every person continuously allocates attention, acting within circumstances, accommodating, ignoring, and resisting the pressures playing upon her, deciding what she herself should try to make from what she can and should become.

[148:] Bored inattention does not result because a student shirks her pedagogical duty, but indicates an autonomous, meaningful response. It should elicit a sharp command, “Pay attention!” addressed not to the person called student, but to the person called teacher, to the parent, to any educator, resulting in a question addressed, person to person, to the one called student: “What's on your mind?” We should start by recognizing that the person studying, who continually makes judgments about her possibilities inwardly, knows what she wants and seeks, however imperfectly she may express it. With respect to formative justice, students activate — their educators respond; the educators have no direct

causal power. The creative educator will hear clearly and correctly what students ask and will respond with honest thoughtfulness with what he thinks in response to what the student inwardly seeks and pursues. The student will make of it what he will.

[149:] In reality, the Great Didactic cannot teach all things to all people. Virtue cannot be taught. Each person creates a unique, new version of virtue in forming herself. Schools cannot educate the whole person. Each person lives an integral, whole life, forming herself. And the school — good, bad, or indifferent — simply serves as a part of her circumstances with which she interacts as she forms herself throughout her life. The presumption that the Great Didactic can teach all things to all people overly circumscribes both the student, disempowered as a passive recipient, and the teacher, forced to overreach as the fount of learning. The proper flow of initiative, from the questioning student to the responsive teacher, has been reversed in the Great Didactic, and this reversal has spread far beyond our institutions of formal education, becoming common in entertainment, commerce, and politics. As in the religious Reformation five centuries ago, now each person's assuming and asserting the rights of formative justice can and should renew the power of an educative inner light.

[150:] Formative justice for the person does not entail deep changes in what takes place in the support of education by and through each person. Rather, the changes required for justice in the self-formation of each person have much more to do with situating control and initiative relative to the support of education with the person

educating herself. The parents of each newborn must learn to listen and to hear, to decipher the infant's gurgles and cries, and then to respond appropriately. And so it goes through life. The school can and should provide children a place to congregate and interact among themselves and interested, caring adults, who listen, hear, and respond. Constraints on intellectual interaction are loosening, rapidly and greatly, opening out a multiplicity of personalized paths in and through the culture. Schooling can and should shed its depersonalizing strategies and renew its character as skholé, a place and time for leisure, which free persons spent especially in explanation and discussion.

[151:] At any age, a person pursuing her self-formation wants and values the simple, authentic support that others can and should give as they listen, hear, and respond appropriately. But the pedagogical priesthood has destructively overreached and assumed too many non-existent powers: tell, test, and rank comparatively. The presumption that the Great Didactic causes education creates deep alienation in countless students, and in teachers too. And the historical circumstances that enabled the Great Didactic to overreach, to control the access to knowledge, are rapidly disappearing. Digital communications are wresting control over knowledge from the pedagogical priesthood more decisively than printed books wrested control over tenants of faith from the theological priesthood. Really, how do costly degrees differ from the indulgences, the certificates of salvation once peddled in bulk by the church?

[152:] Places of worship continued to thrive after the Protestant Reformation and the Counter Reformation, but on both sides, significantly, albeit imperfectly, they diversified, simplified, and democratized. So too will institutions of education diversify, simplify, democratize, and decentralize as persons reassert the integrity of their inner lives in the work of their self-formation. A vast repertoire of exemplary cultural resources is rapidly building, available on demand at no charge or a very low price. The recognition is starting to spread that persons — children, youths, adults — can exert immense cultural power by exercising their aptness, for good and ill. Are these eventualities way, way off, an indefinite nicht noch. a wistful "not yet"? Look about! A few years ago, new curriculum standards enforced by high-stakes tests appeared, pedagogically speaking, to be a blitzkrieg of reform. But their power is melting as apt parents and children seek more control of formative experience within the Great Didactic, and without.

[153:] In religious life, the Reformation did not begin as Church authorities were persuaded to adopt, top down, a different path to the salvation of souls. So too, an educational reformation will not start with the official promulgation of new policies and programs for the Great Didactic. A powerful reformation can only emerge with people recognizing, person-by-person, that the seat of formative justice lies within each. The resources exist for that to happen, for the child and the culture to flourish. Each has the prerogative and task, from first to last, to pursue justice in forming her capac-

ities as fully as she can in the actuality of her circumstances. Whether with awareness, or not, she can do no other. As Lachesis, daughter of Necessity, said, "The choice makes you responsible."[12]

[12] Plato, *Republic*, X: 617e.

6 The Purpose of the Polity

[154:] And polities, like persons, form and conduct important activities by and for themselves. Let us understand a polity to mean a self-maintaining collective agent structured to exercise perceptive, active, and self-directive powers to carry out activities conducive to its purposes. As with persons, polities act with both instrumental and formative consequences. Most ostensible concerns within polities — governments, businesses, unions, schools and universities, charities, clubs, and on — concentrate on the instrumentality of action, the stuff of politics, programs and policies, what makes the news. But looking towards the future, we approach instrumental activities as possibilities, which bring with them the importance of formative justice at collective levels, for the possibilities that a polity might pursue change as it shapes its perceptive, active, and self-directing capacities.

[155:] Through its political processes, a polity selects which instrumental possibilities it will try to make actual using its perceptive, active, and self-directive resources. The sum of interactions taking place within the polity, however, formatively affect what possibilities those engaged in instrumental politics can plausibly attempt to implement. Thus, formative justice and injustice can significantly change the spectrum of possibilities, for better and for worse that the polity can and should pursue.

[156:] We live in nominally democratic polities, however, which really have within them divergent, factional

interests and partial conceptions of the good. In thinking about formative justice and the polity, no group can glibly declare what policies and programs would be formatively just for the whole polity. The whole polity has the prerogative and task of responding formatively to what transpires within it, with all its members involved, peers to one another. People form a network of interaction, a hubbub of communication, which sets limits on who can do what on behalf of whom. Elites vie to implement specific actions and from their interaction among themselves and among all the members of the polity, a defuse deliberation takes place, continuously defining the range of possibilities the polity can and cannot attempt to carry out for itself.

[157:] Modernity accords high premiums to instrumental results in political, economic, and cultural life. Winning counts as demonstrated in electoral votes, quarterly earnings, grade point averages, team standings, and on. Winning is jolly good, but it comes with costs for the winner as well as the loser and it becomes all-too-easy to push consideration of those costs out of mind. Let us here note how the interactive deliberation coursing through polities can suppress consideration of those costs, often the formative costs, as powerful voices in it subvert, sidetrack, and confuse it.

[158:] Elites subvert deliberation about the formative implications of instrumental actions by preempting it, promulgating their preferred possibilities as if, prior to all the give and take, these were unquestionably the possibility preferable for the whole community. A dec-

laration from a position of power that prematurely rejects significant possibilities blocks attention to their formative implications. Such subversion happens systematically by denying significant voices — be it by gender, class, ethnicity, creed, or party — and they do it by fiat when someone in control of an agenda refuses to include an important matter on it. Elites can also sidetrack deliberation by inflaming passions about something secondary that sucks the oxygen, as they say, from considering less volatile but more consequential concerns. And especially in troubled times, elites become adept at confounding deliberation by asserting outright falsehoods and sowing inappropriate doubts about carefully considered inputs on a portentous issue.

[159:] All these problems are perennial in collective life, but they become particularly acute as the complexities and uncertainties that a polity must address become greater relative to the perceptive, active, and self-directive capacities at hand in the polity for coping with them. As the formative challenges a polity faces deepen and become more complex, its instrumental ability to cope effectively with the problems of the day declines. The range of possibilities open to it narrows; their desirability worsens; the contingencies besetting it become increasingly portentous. The imperative of sustainable self-maintenance makes formative justice a fundamental public concern.

[160:] With respect to formative justice, the major subversion of deliberation occurs when powerful groups start speaking about the needs or interests of the polity as if it was their special prerogative to speak for the

whole. Self-serving elites work to short-circuit effective interaction, to impose policies and programs that they favor on the whole polity, and to block ones inimical to their interests. An important step in subverting deliberation casts an issue in binary, either-or terms. Such a construction of the issue disempowers those who do not see it from the one extreme or the other. Make it all or nothing: a program or policy must either succeed unequivocally or fail abjectly, an action must have unimpeachable grounds or no reasons in its favor at all. To impose educational policies, the interested elite first declares the status quo null and void and proclaims that a mortal crisis looms. Such a declaration preempts discussion of diverse specific changes, creating a massive state of exception — disaster threatens, something must be done, and I — I alone! — can fix it. We ordinarily think of such putsches as taking place with the enemy at the gate, but given the scale and pace of historic change, subversion can be slow moving if driven by well-resourced, patient elites. Thus, grand old parties learn to abase principles and flatter fools.

[161:] Since promulgation in 1983 of A Nation at Risk, with the telling subtitle — The Imperative of Educational Reform — a pedagogical putsch has been slowly taking place. Powerful groups have been proclaiming the failure of public education and demanding massive change, packaged as "educational reform." This reform does not simply advance a new program here and an improved policy there. "Educational reform" amounts to turning a locally oriented, imperfectly democratic system of public schooling into a highly technocratic,

national system of instruction, one narrowly responsive to the interests of global corporate capitalism. For most persons, it mandates a pedagogy antithetical to self-formation, a managerial regime that specifies the required outcomes for teachers and for students, and it promulgates a powerful accountability regime to enforce it. Cui bono?

[162:] We can and should be highly critical of the shortcomings of the Great Didactic, our system of public instruction, while rejecting manipulative nonsense about its abject failure as an effort by plutocratic interests to reduce the limited opportunities enjoyed by the great majority of persons to exercise formative justice in the direction of their own lives. The movement for educational reform threatens to convert the Great Didactic into the Leviathan of Learning. In place of massive reform, let's pursue many specific, concrete ways in which people can make their homes, communities, workplaces, and schools more conducive to self-formation by the young and old alike. That calls for open, thoughtful deliberation in which all meet as peers with none specially privileged. Formative justice best serves humane aspirations through and for local jurisdictions and complex, multifaceted civil societies.

[163:] Localities, the natural communities within which people live, can and should be sources of shared initiative — starting and maintaining a community garden, agitating against a local polluter, mobilizing support for the elderly, resisting globalization with cooperative businesses, undercutting efforts to privatize commu-

nity goods and services, ensuring that police and human services respect and benefit the local populations that they serve. Larger jurisdictions — state, national, and international governance — can and should use formative grounds to provide infrastructure and mobilize the resources of the commonweal for use where people work and live, distributed on principles of justice as fairness. For such things to begin to come about, we can and should strengthen deliberative practices and spontaneous organization, not only to keep them free of subversion by powerful interests, but also to ensure that they do not become sidetracked by one-sided concerns. Here, inadequate attention to formative justice relative to more clearly focused types of justice can skew deliberation. Let us try to put formative concerns back into our deliberations about education in and for the polity.

[164:] Affluent consumer economies deal primarily with "formative goods" — products and services that on the one hand get distributed as personal or public goods and on the other serve as resources in the formative activities that people engage in. People value the obvious formative goods like schooling, medicine, and other human services, and they treat many consumer products as formative goods as well because they can use them in giving shape to the lives they wish to lead — cars for transportation, phones for interpersonal communication, computers for managing information, rent and mortgages for housing and durables for keeping house, and all sorts of goods with which to make and do things. To find the formative side of goods, think about the verbs we associate with them, not the nouns we use to

identify them , not what we might have, but what we can do.

[165:] People have two-faced desires with respect to formative goods: atone pole, they value getting and having them, desiring them as possessed goods, like a piece of jewelry or a badge of status, or at the other, they concentrate on using them as formative resources with which to extend their perceptive, active, and self-directive powers in living their lives — a hearing aid, a gym, a community center. Material measures account for use-value poorly. The poor remain poor because they must continually make do with stuff that works poorly, the stuff the affluent discard or ignore as not worth the trouble. Ultimately, equality requires formative justice for all, a full complement of relevant, fitting use values in living each life.

[166:] 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 most concerned with whether and how to acquire it. If, however, she thinks of it mainly as a formative resource, she will concentrate on its potential uses and the value that it may or may not have in shaping 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.

[167:] For complicated reasons, distributive justice has become central to public conflicts concerning access to educational opportunities. Education has become a substantial expense, both private and public. As we see more and more clearly, all suffer, perhaps grievously, when democratic polities prove incapable of choosing prudent leaders. Nevertheless, many people believe they do not directly benefit from the public expenditures for schools and other highly formative goods. They feel an avaricious interest in holding down public expenditures on them. For a long time, provisions for mobilizing public resources have advanced 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. Novel 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, with access to further education allocated on meritocratic conceptions of equity. All of it as if "education" has an on-off button like a common vacuum cleaner.

[168:] It's a muddle. Who gets access to what education will long remain a confusion fraught with issues of dis-

tributive justice. Those realities notwithstanding, people can cut through the muddle, at least conceptually by reflecting on formative justice with respect to the provision of educational activities and other human services. 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 differ, each of which applies to formative goods. But considering purpose, motivation, and capacities through formative justice can lead people to form new intentions perhaps leading to different results. In lieu of full consideration, let us here sketch how more attention to the formative dimension of education and human services, relative to the distributive, might alter how we think about key policy issues.

[169:] Conceptions of distributive justice are working to rationalize access to education, health care, and a range of public services, with costs and benefits allocated according to a conception of equity, with a lot of contention over what conception of equity should rule. Public policies have become very contentious in heterogeneous polities. Many persons strongly uphold a market economy, untrammeled property rights, minimal public expenditures, privatized public services, and the practice of interest group politics. Many other persons favor social democratic practices promoting egalitarian relationships, full employment, affordable health care for all, high investment in material and social infrastructure, and achieving a sense of life-long security for all. The distribution of formative goods appears to be

increasingly stymied in a zero-sum conflict between adherents of conflicting conceptions of equity in the polity.

[170:] In heterogeneous polities, criteria of equity by themselves often do not yield an effective consensus about how to produce and distribute formative goods. 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 and other matters as well. 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 strengthening the capacities of everyone.

[171:] Many formative goods originally became matters of public policy because they were formative concerns of significance to the whole polity, not because they were distributable goods possessed according to rights or entitlements. Modern states instituted compulsory schooling for formative, not distributive reasons. Even special programs such as Head Start, exist primarily to provide impoverished children with a formative, early educative opportunity aimed to enable them to benefit more fully from their later schooling. We should think of such programs not as distributive entitlements for special groups, but more as an effort to help members of underserved groups to form their capacities, which

have value for the whole society, more fully. Public goods that the polity distributes as matters of equity surely include educational opportunities, but even more, the polity should care for the formative experience of all its members as a formative responsibility of the polity undertaken by the polity for the good of the polity and all its members.

[172:] Putting the matter on a formative basis in one sense may seem 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.[13]

Are we slowly recognizing the prescience of these words? Ignorance makes pedagogy powerfully political. Somehow the very practical, formative mission of education for all has become obscure. As we increasingly allocate access to instruction on distributive grounds and deliberate about the equity of different distributions, we see deep confusion about controlling principles.

[173:] Historically, the initial impetus for providing all sorts of common, shared goods originated in the pursuit of formative justice, not distributive justice. For instance, people joined together to institute good sewage systems benefiting everyone, not because equity entailed that everyone should have a private privy for their daily business, but because it served 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, ensuring that people who have been unduly stunted through past neglect and abuse, can form their human capacities more fully, to the direct benefit of themselves and to the indirect benefit of all.

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[13] Thomas Jefferson to George Wythe, August 13, 1786. *The Papers of Thomas Jefferson: Digital Edition*. Main Series, Vol. 10, (1954) pp. 243–5.

[174:] Polities do not flourish and underwrite their fulfillment by stunting the talents distributed among their members. Our political processes have great difficulty building a consensus about distributional equity in many matters — the rights of women and minorities, the management of immigration and refugees, open access to information, investment in effective infrastructure, environmental protection and the conservation of resources, even national defense. We should note that all these matters, and others as well, have significant formative implications. Look for instance at the tax rates a populace will deem equitable at times when it mobilizes for all-out war, hot or cold, which radically jeopardizes the formative future of its members. People have those formative interests all the time and we should give those formative interests their due more assiduously. Let's live in a polity that supports as fully as possible the efforts that all its members can and should make to fulfill their humane possibilities.

[175:] Some readers may respond that such a polity would be nice, but . . . the liberal polity protecting the rights of property rests on principles of distributive justice and precepts of formative justice should apply only insofar as they do not contravene the foundational matters of distributive equity. Classical liberalism, a powerful version of this view, held that the polity exists for the protection of property and the liberties of its citizens. Any action in the name of formative justice that would limit the equity of the property holder would violate the compact at the foundation of the polity. Let’s examine such reasoning carefully in the light of formative justice.

[176:] Markets for the exchange of property may often serve as effective means for allocating resources. But people err in thinking that distributive justice, preempting formative justice, can privilege markets and private property as matters of equity. In classical theory, formative justice preceded the rights of property and provided the foundation for them. A pursuit of formative justice, embedded in the lived experience of each person, motivated the creation of property, both public and private. This assertion does not introduce a novel consideration, for the reasoning at the core of liberal doctrine enunciated long ago entailed it.

[177:] Formative labor was integral to the definition of property in the liberal theory of the state. As John Locke stated in his Second Treatise of Government,

> 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.[14]

What did this property-creating labor do? It improved the stuff of nature; it formed unimproved circumstances into something distinctively human, converting

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[14] John Locke. *Two Treatises of Government*. Bk. II, Ch. V, Sec. 27.

it into properties of the humans forming it. 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 the persons who formed themselves by forming it with their improving labor. In doing so, persons also changed and advanced their own faculties through their labor, forming themselves and the civilized communities in which they lived.

[178:] By equity alone, the natural order for Locke was a vast, unimproved commons, to which each person had an equal right. Locke called that primordial commons, "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 farms, estates, towns, and cities; into the tools and apparatus of civilized life; into institutions and laws of enlightened polities. But Locke left classical liberalism with a lacuna by confounding the commons with an imagined, raw state of nature, leaving an improved commons, a real, historical commons, in a theoretical limbo.

[179:] Locke's description of how property originated was substantively thin. He seemed to have imagined it as a primitive act of enclosure, when someone staked out a field and improved it, clearing away trees and underbrush, perhaps adding a wall or fence, maybe even a ditch for drainage. But as people emerged from prehistory into historical times, they did much more with their

formative labor than clear and cultivate a field. With formative labor, they created the household, the oikos, a sphere largely of private property employed for both production and consumption. But with their formative labor, they also created a commons, not the waste of which Locke explicitly spoke, but the polis, a sphere of common resources, formative achievements, held by and for all, including multiple households. These common improvements, a vast wealth of formative capacities — know-how for working wood, laying foundations, forging iron, hitching harnesses, caring for and planting seed, surveying and surfacing roads, recording precedents and applying the common law, and on and on, applying it all to create a shared infrastructure for communication, community defense, festival, art and entertainment, barter and trade, worship, wonder and inquiry — all this formative labor was as much a part of forming the human world as digging a drainage ditch or knitting a sweater in the confines of one or another household.

[180:] We can agree with Locke that property results from formative effort, but that property, from the beginning, was both public and private. The state exists for the promotion and protection of property, the fruit of formative effort in all its manifold forms. Persons themselves make property, "the characteristic quality of a person or thing" (OED, 1a.), from what they can and should become. If we read Locke thoughtfully, filling in with our fuller knowledge of early historical experience, we should conclude that the liberal state exists for the promotion and protection of formative justice, the

birthright of each person, as each forms her capacities as a creative member of the polity, drawing on both her unique personal energies and on the common property of all humanity. Liberal polities disown the commons at the peril of their self-incurred destruction.

[181:] In its fullness, our human world — the world of culture, art, economics, politics, technology, religion, society, education, communication, farms, cities and towns — comprises a world of, for, and by human self-formation. Responsible actions respond: public life responds to self-formative effort, responsive to it, and in articulating their public purposes, people should examine vigorously whether and how their public lives will fulfill that responsibility by responding fully to their shared task of self-formation. Formative justice has three basic concerns.

- *The intellectual*: Will implementing our programs and policies culminate in a polity that incarnates the values and principles we actually hold and seek? Will they allow each member of the polity to make of himself what he can and should become? Do we constitute our public life so that we can make sound judgments about our purposes through it? Do we effectively articulate and value public possibilities, assessing them for feasibility and worth, progressively eliminating those that seem too risky, too high in costs, too low in benefits, unfit, unworthy, inappropriate? Do the possibilities that persist, after we have winnowed those

that do not pass muster, define a polity that we realistically, reasonably value?

- *The emotional*: What will motivate members of the polity to embrace the policies and purposes under consideration? People exercise intentional control through their emotional weighting of purposes, amplifying some, weakening others. Currently most people concentrate their emotions on relatively private matters, both hopeful and despairing. Public emotions polarize over highly particularistic issues — abortion, gun rights, symbols of identity — and shatter in stasis as diverse interests wield specious constructs to aggrandize "us" and dehumanize the other. If they consider it, each person has a rather concrete stake in formative justice, optimal self-formation for all. Can people begin to see forming our common humanity fully as the basis for strongly held, inclusive emotional bonds throughout the polity? What value and meaning will the goal of formative justice have for the whole polity and for those who will need to make tangible sacrifices, or forego benefits, which others may enjoy, in pursuing the proposed courses of action? How can and should each form strong, intimate bonds with a few and extend the positive valence of those to encompass the whole of humanity, even the full biome, here and everywhere, of life itself?

- *The existential*: How will people marshal and exert their perceptive, active, and self-directive powers in the immediacy of their experience, doing what they do to fulfill the complex flow of their civic intentions? In large polities like the United States, nominal democratic procedures function in highly mediated ways, giving well-resourced groups ample opportunity to manage civic deliberation with ulterior motives. We might fight for autonomy by cultivating the capacity to discriminate between acquiescing in channeled behavior and engaging in public interaction. For the ordinary person, public life amounts to some periodic choices, often highly alienated. How can a formative will, rooted in face-to-face solidarity, find itself and assert itself at the level of a national or global polity? Can people commit to meaningful formative interaction in their localities and build out from there to an inclusive effort to realize the good life by and for all?

[182:] Positive answers to such questions seem a long ways off, but public discussion can and should include thoughtful examination of them. Simplistic advocacy, for and against, highly particularistic goals often drowns the inquiry out. The opportunistic closure of questions subverts deliberation. Lies and specious doubts hopelessly confuse questions of momentous long-term import. Yet in the face of it all, we are free and able to ask: What can and should we make of the polities in which we live?

7 The Stakes of Formative Justice

[183:] As we have observed so far, 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 essential purpose. People will strengthen their sense of purpose, their motivations, and their capacities by reinvigorating the formative arguments for ensuring that all receive opportunities for self-formation, for 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. Active consideration of formative justice in our public life can and should revitalize our shared, common life.

[184:] If the members of a polity associate to pursue together the good life, doing so requires more than defending the private person's right to material property. A person creates property, “the characteristic quality of a person,” through her labor, drawing on and contributing to both her stock of private and public properties. The good polity will become good by fully supporting each person's autonomous effort to contribute to the betterment of humanity what she herself makes from what she can and should become. She forms herself within both the private and the public sphere.

[185:] These considerations of formative justice deserve to be taken one step further: how can full attention to formative justice strengthen the emotional bonds and the shared commitments supporting an enlightened

practice throughout the conduct of life? No polity has achieved the full historical fulfillment of democratic self-governance. Far from it. Whatever the prevailing ideology, people live in quasi-enlightened, quasi-legitimate despotisms, feeling a disjunction between inner aspirations and convictions and the necessities of action within the impersonal spheres of political, economic, social, and intellectual organization in which they function. Democracy in cultural matters has neither been understood fully nor realized fully, and current polities have very limited meaningful democratic interaction. Both cultural democracy and participatory democracy have long hovered on the horizon of shared aspiration, but no polity has begun to succeed in giving either concept clear substantive meaning. Most people remain consumers of culture created by small elites, and as the scale of politics has become national and moves towards the global, on an ongoing basis political action impinges on most people as mere recipients, not engaged participants — in substance, subjects not citizens. Can the concept of formative justice help extend democratic interaction in the work of cultural and political life?

[186:] So far, putatively 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. The faux-populism in present fashion simply promises to substitute domination by less-enlightened elites for those of yesterday. 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 a result: the bill of sale completes the transaction; public relations, advertising, and planned obsolescence will take care of future market share. Distribution and access become desiderata. Sales and attendance get counted, and their totals indicate success or failure: whether those who buy the bestseller 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. How can cultural life become more broadly participatory? Can we make political activity engaging for ordinary citizens? Can creative work, remunerative with more than a living wage, become modes of self-expression for all?

[187:] Let's think about how we might answer these questions, not through the current system of public life, but outside of it. The dominant elites in the current political economy shore it up and themselves at its top by inculcating a climate of fear and insecurity. The whole system rests on the premise that economic rationality rules everything, its legitimacy established by providing economic growth, and whoever fails to do their part in maximizing returns on investment irresponsibly puts a break on the engine of capitalist innovation. The fundamental mode of judgment in that system — where sound judgment yields more — prescribes instrumental excesses, not the satisfaction of meaningful aspirations, but the continuous escalation of induced expectations.

[188:] Alternative modes of judgment are possible. In pursuing formative justice, a person must be adept at

judging not more, but enough — neither too little nor too much. To compensate effectively whenever an inner sense warns of an imbalance, the person adjusts with what she judges to be enough countervailing effort, neither too much nor too little. Cultural democracy and participatory democracy will thrive as we discover how to displace the drive for more, ever more, with a well calibrated sense of enough.[15]

[189:] Material abundance does not guarantee the quality of life; sufficiency does. Return on investment does not measure human value; human values determine the worth of invested capital and labor and the material resources they generate. An ever-maximizing economic rationality does not rule our lives. We do not need to be envious of the vast fortunes the very few amass; rather, we can marvel at their stupidity as they slave for more, ever more than they could possibly need. What waste of human talent! We can choose to engage in cooperative enterprise and maintain decent pay and secure employment legally and humanely. Doing so might elicit a sense of commitment and worth. The commons, intellectual and physical, produces resources, usable by all, resources to which each can contribute his efforts at will. Instead of always needing more, we can and should learn how to seek just enough, and work towards a commons that maintains and provides it for all persons and

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[15] I have explored the importance of *enough* as the fundamental principle of judgment more fully in *Enough: A Pedagogic Speculation* (New York: Collaboratory for Liberal Learning, 2012).

all their concerns. Enough charts the path of both freedom and fulfillment, a slow one, a steady one.

[190:] Currently, with private philanthropy and public assistance for those in need, we pay too little attention to the role the recipients can and do play in and through them. The munificent advantages the well-to-do enjoy legitimate their self-congratulatory, altruistic aura, while the parsimonious benefits trickling to less advantaged persons stigmatize them as *takers*, a burden on the whole community. But the under-served are necessarily the under-serving, and social benefits to empower their self-formation will do much more for the quality of life in the whole community than further empowering the hothouse few can possibly do. Empower the least empowered: that it the true utilitarian calculus. Doing so turns on recognizing that everyone forms themselves as best they can within the circumstances in which they live. In substance, human services, private and public, provide resources with which the recipients can and should act for the benefit of themselves and the whole polity. Receiving empowering assistance does not signal weakness, inability, or sloth. Assistance devoid of paternalism provides people with resources because they are the ones who shape their lives and the lives of those with whom they are entwined.

[191:] For instance, in thinking about formal education, currently people pay extensive attention to the agency of schools and teachers, and some to parents, in the process. They pay little attention to the agency of the children in their own education. They speak habitually of children receiving education. The dominant pedagogies

use a compulsively behavioral understanding of children to devise instructional schemes, which consequently require much compulsion and management to enforce. How much school time gets spent in enforcing order? The whole program prods the child this way and that — or should I say, "stimulates," "interests," "leads," or whatever euphemism you prefer? Assessment documents the child's responses, according to one or another rubric, simple or complex. Here and there we find constructivist and flipped classrooms, a heroic teacher consistently responding in class to each child as an autonomous person, or a school with a thoroughly progressive pedagogy. But those special situations seem beleaguered, uncomfortable parts of a larger system. In it, set curricular expectations reign, formal procedures regulate advancement for both teachers and students, and everyone works within a built environment designed to implement the work-flow of the Great Didactic.

[192:] A reformation from outside the system will come as we ask incessantly, what can the child do in pursuit of her self-formation? And equally, what can teachers and parents do to respond to the self-forming child, helping her manage her efforts with optimal effect? Attending to formative justice requires recognizing the autonomous self — auto (the self) plus nomos (the norm), the self-norming agent. The person engages in forming and maintaining herself. Groups, large and small, also form and maintain themselves through the

autonomous efforts of their members, devilishly complicated to chart, which aggregate the many-sided subjective social interactions among the persons involved.

[193:] Too individualistic? Not at all. The individual exists only in thought, a fictional abstraction. The person, and active agent, lives in a world entwined with many others, all interacting, forming themselves together. Persons and polities, although self-norming agents, continually respond to external influence by other agents and by circumstances. Force, and all manner of conditions, may compel autonomous agents to exhibit particular behaviors that authority favors. "Man is born free, and everywhere he is in irons."[16] Rousseau advanced a way the authority might become legitimate the chains, stipulating arrangements that existing polities cannot fulfill. But history tells of the recurrent decay and breakdown of authority throughout the ages. In our time, the weaknesses of authority seem to lie, less in revolutions or wars, but in collapse from within, stasis, corruption, decadence, ennui, hypocrisy, cynicism, fear, anxiety, depression, and plain cowardice — not the danger of unanticipated events, but an incapacity to act in the view of consequences, foreseeable and foreseen. We might call this danger *addiction*, the inability to desist from that which undermines the sustainability of life, personal and public. Let us concentrate on the personal, for if we cannot transcend that, the public addictions to unsustainable growth in material consumption will continue to worsen, unabated.

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[16] Rousseau, *On the Social Contract*, Book I, Chapter I.

[194:] Think of the beautiful boy, the wonderful girl. They are nurtured in complex, caring homes — successful parents explaining and clearing the way, each separately, yet together. They get sound schooling and have straight paths to the future, but all subtle with temptations, a brush with Ecstasy or something else. The temptation takes root, a fantastical inner world beneath the surface of normal behavior. Everything remains OK, the probable prospects all in order, until the addiction catastrophically breaks through the behavioral expectations and everyone flounders, powerless to control an onrush of intractable behaviors. It is an oft repeated tale with many variations according to class, geography, and situation. Why does it happen? We can and should raise this question even though here we can only point in the direction of an answer. Temptations are all too human and their pharmacological dynamics truly powerful. As a cultural phenomenon, addiction is a vast and complicated matter with no sure or clear resolution. If formative justice has a role in coping with the problem, it is not as a cure for addiction once it has set in, but in raising a person's resistance to it at its onset.

[195:] Possibly, the wonderful girl and the beautiful boy might handle their initial temptations with greater self-mastery if they paid fuller attention to their inner senses and had more support from others and from their culture in doing so. In the temptations of adolescence, and those throughout life, people inwardly encounter the full complexity of their inner lives. Whatever occasions a temptation, a person experiences it as an inner sense, as an urge or desire, a thought or feeling, in tension with

other urges, desires, thoughts, and feelings. A person mediates this expression of the inner life by aspiring in one way or another to a difficult, ongoing integration of thought, feeling, and will. But with the temptation, she intuits the prospect of immediately diminishing the distressing tensions between thought, feeling, and will. The threat of addiction arises, not from the tension itself, for life, for humanity, consists in coping actively with that tension. The threat arises from the sense of isolation that can envelop awareness of the problem, the feeling that one is alone with it, overwhelmed by it, eager for some way that might dissipate the tension by tamping thought, feeling, and will down, even turning them off in a narcotic blur. Addiction starts by grasping a ready means to dissipate unexpected and intractable inner tensions. It induces a transitory sense of fulfillment, a sense of being whole, at ease with what is. It does so by interrupting the steady effort to bring thinking, feeling, and willing into sustainable equilibrium. Addiction constitutes a profoundly personal situation, yet it belies the continuing failure of humanity, the incompletion of life itself, the ongoing inability to resolve its internal contradictions, sustained so far in a state of uncertain sustainability.

[196:] For the girl or the boy, passing through their second birth — thinking, feeling, willing life anew — the childhood order shatters arbitrarily from within. The boy finds himself isolated — a first man — estranged, at odds with himself and his world, having the infinite task of constructing a sustainable order through the chaos of his thinking, feeling, and willing. Every woman and

every man inhabits this situation all the time, but each encounters it uniquely at its first juncture. Modern culture too often then leaves each stranded with few resources to draw on as she becomes aware that her inner senses powerfully influence her choice of action in ways that may be difficult and dangerous. The boy and the girl have had appropriate behaviors carefully modeled for them. Schooling has set the hurdles and good teachers have smoothed the way: objective performance counts, not silent awareness of inner contradictions. Both inhabit a world shaped by behavioral management and stocked with predictable expectations, laugh-tracks enabling the family to guffaw together on cue. Parents hope for the maintenance of outward order, hide their own storm and stress and do not want to hear about it gathering in their children's nascent inner lives. Despite democratic pretensions, behavioral management works despotically — "Reason, as much as you wish on whatever you will, but obey!"[17] People hide their inner lives as a solipsism, largely untended, stashed behind observable behaviors. But in social action, despite appearances, a deep difference separates conformity and solidarity, the one coming about through induced acquiescence and the other through common, considered assent.

[197:] 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

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[17] Immanuel Kant, "What Is Enlightenment" (1784), paraphrasing Frederick the Great.

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 plastic pupil or the passive student lacks an autonomous will that deserves respect and recognition, for that will is only nascent. The behavioral premise assumes that with paternal care, well-conducted instruction can and should mold the nascent person, which still only responds to the force of external stimuli, into a self-governing adult, an assumption doomed to often fail.

[198:] In contrast, genuine pedagogic influence can do great good, but it must start by recognizing its recipient as a fully autonomous agent, however immature, as a person with a will, an agency, fields of perception and action, in and through which she lives. That is the agency that will oppose the onset of addiction. The boy and the girl may not act freely, in the sense of acting unconstrained, for no one can do that; but they act autonomously in the sense of self-norming. All life has an autonomous will; the parent and educator must work with and through it. Rousseau recognized that all living organisms followed their autonomous will, and consequently for him education in accord with nature would take the primacy of that will carefully into account. The pupil does not sit there, perfectly plastic; mere stuff for the educator to squeeze 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, makes it her own as part of her ongoing self-formation.

[199:] Real assent does not come lightly and those who seek to wield pedagogic influence easily short-circuit the student's assent and 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 secured. The child seems happy, disciplined, the lesson learned. But from unctuous art the recipient learns a naïve dependence, from stern force, sullen servility, or from patient repetition, anomic conformism. Even at its very best, most formal educative effort works on behavioral principles, treating pupils and students as black boxes, devising stimuli delivered through good teaching method and expecting concomitant effects measured through timely assessments. The resultant schooling functions as a productive process working on dead matter.

[200:] For a representative example, look carefully at "Teachers and Leaders: America's Engineers of Learning and Growth," a U.S. Department of Education web page during the Obama administration. It presented education as a production process to be optimized by engineers, resting on the labor of the teacher. It touted programs that will produce the teachers who will produce the students who will "be engaged citizens and meet the demands of the increasingly complex and global economy." Does this page, and others like it, depict students as flesh and blood children and youths, caught up in the flux of their personal experience? The engineers of learning and growth often soften slightly

the language of production engineering — "to set students on a path of success," "to advance student outcomes," "to cultivate talent at high-needs schools."[18]

[201:] We no longer recognize formal education as something taking place in the inner lives of persons, many early in their work of self-formation and some more fully advanced in it. So too, much informal communication in the public sphere and in intimate space, ignores the inner lives of the persons interacting together and aims instead to compel a favored, outward outcome. Talking points and tendentious constructions, not to mention outright falsehoods, the mode du jour, do not convince autonomous persons. Base manipulations deny the living integrity of those from whom they force this effect or that behavior.

[202:] Such degradation of humanity, such denial of life, rushes through politics, education, entertainment, industry, commerce, philanthropy, and religious worship. The great difficulty arises because the pervasive denials of autonomous agency often take place in good faith, through agents who act autonomously themselves, well-meaning but thoughtlessly oblivious about what they actually do. "From the moment students enter a school, the most important factor in their success

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[18] U.S. Department of Education. "Teachers and Leaders: America's Engineers of Learning and Growth." Retrieved April 2, 2016 from www.ed.gov/teachers-leaders. Government sites change, especially as Trump follows Obama, and readers can access a copy here www.educationalthought.org/files/FJ/Engineers-of-Learning-and-Growth-US-Department-of-Education.htm.

is not the color of their skin or the income of their parents, it's the person standing at the front of the classroom." Surely President Obama did not mean to do so, but such talk deeply alienates the student from his own effort to define and pursue his success.[19] To adapt our educative efforts to the pursuit of formative justice, we can and should respect its principles carefully: teachers and leaders do not engineer learning and growth.

[203:] Retraining teachers and school administrators may improve the circumstances in which students pursue their self-formation, but to right the pedagogical situation, pupils, students, parents, teachers, administrators, public leaders, and the populace at large all can and should form a different understanding of the situation in which educative efforts are taking place. An educational reformation, and its counter-reformation, will come about through a transformed perception of the problematic in human experience that leads people to engage in their own self-formation.

- What will the polity make of itself, from what it can and should become?
- How can it enable each person within it to contribute what she herself will make of what she can and should become?

[204:] These questions lead to further, more specific ones:

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[19] I use examples from the Obama administration, not to join in picking on his leadership, which like that of Marcus Aurelius stands as a beacon of excellence in a succession of mediocrity, but because the nullity that has followed lacks sufficient substance to critique.

- Why don't educators research how a job market, which would sustain full employment in interesting jobs rich in opportunities for meaningful self-formation, would facilitate the exercise of formative justice by citizens throughout their lives?
- How do school experiences relate to meaningful support for community cultural activities?
- If legally compelling the young to attend schools has legitimacy, why do we not legally compel employers, proportional to their cashflow, to fund decently paid internships of two-years or more for all youths on their completing their schooling?

[205:] Looking a bit at the somewhat longer range:

- If useful work is becoming scarce through automation and AI, should educators pay more attention to supporting the uses of leisure that many may find themselves forced to suffer or enjoy? Are we already facing a formative distortion, evident in a malaise of anomie, as productive polities take little care for humane values in the shared pursuit of leisure? Does contemporary well-being really depend existentially on winning the race between technology and education?
- If we put our minds to it, there can and should be many ways to leaven formative justice within the Great Didactic and within the encompassing human lifeworld.

[206:] Providing for formative justice requires hard reasoning supporting careful, informed judgment, without privileging the existing system. Promoting formative justice enjoins much more as well. Beneath official politics, a vital politics churns on. There each exercises a unique fragment of influence in the way each interacts with all the others — thus the flock soars and the school swims. Fulfillment depends there on achieving honest deliberative interaction among the self-governing members of active polities — local, regional, national, and global. We all interact as unique peers, defining the spectrum of what we can and should do together. Fulfillment entails forging a sense of commitment to each other and to the betterment of all, a belief in its rightness, in rights imbued with dignity and the moral authority that moves the human spirit. Fulfillment then requires what seems hardest of all, a charisma that does not induce complaisance, hostility, or fear.

[207:] Each person has the right and duty to contribute to the betterment of humanity what she herself has made from what she can and should become. All merit justice in its most fundamental meaning, formative justice, the right to participate fully in what makes humans fully human. Listen to Martin Luther King, Jr., writing from the citadel of the civil rights movement, the Birmingham Jail:

> Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the

> personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority.[20]

The great protest denounced long sanctioned injustices and called for a vision of a more just polity, one dedicated to a justice that uplifted the human soul and opposed an injustice that distorted the soul with pretensions to unmerited superiority and stigmas of undeserved inferiority.

[208:] Martin Luther King, Jr. stood for formative justice and formative justice, the right of each person to seek fully her self-formation and self-determination, gets people into the streets — against apartheid and segregation; for the rights of women, minorities, and the persecuted; against dehumanizing racism and prejudice; for the dignity of both labor and leisure; against the rule of bureaucratic apparatchiks; for the exercise of freedom through speech, assembly and public action; against manipulation by the privileged; for transparency in government and corporate office; against war and violence; for the care of the earth, the human habitat, and that of all of life together .

[209:] Let pupils and students query themselves about formative justice in their lives. Help them ask what their purposes entail and whether achieving those purposes will bring them what they really want. Let them say what moves them; what they hope for and want to try;

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[20] Martin Luther King, Jr., "Dr. Martin Luther King, Jr. to White Clergymen," *Letters from Black America*. (Pamela Newkirk, ed., Kindle edition). Location 2579.

what angers and gives them joy. Find out, as they grow and mature, what abilities they seek; what skills they think they can and should acquire; 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.[21]

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. Let us live into the answers, asking the questions, engaging the difficulties, embracing the possibilities, inspiring formative effort.

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[21] Rainer Maria Rilke. *Letters to a Young Poet*. (M. D. Herter Norton, trans., 1954). p. 35.

Acknowledgements

This essay distills my reflecting on formative justice over many years. I first touched on the concept, labeling it "regulative justice" in a white paper commissioned by the U. S. Department of Education in 1996. Then I developed it a few years later a bit more fully in The Educators Manifesto (1999), and again in Homeless in the House of Intellect (2005), and yet again in Enough: A Pedagogic Speculation (2012). In academic life, we easily talk a few times about a topic tangentially and then leave it, feeling that by having touched on it we have dealt with it. I might have done that, but continuing encouragement by colleagues has kept me committed to working on the formative justice.

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Likewise, Chris Higgins unexpectedly gratified me with his discussion of formative justice in his important book, The Good Life of Teaching (2011). There Higgins shows why good education depends on the self-formation by teachers of all their capacities throughout all aspects of their lives. To me, the book provides a matchless example of formative justice in action. And Higgins, like Arcilla, has inspired me by not letting up, for instance through his declaration on "Undeclared" introducing a recent issue of Educational Theory.

At the 2012 Annual Meeting of AERA, Jessica Hochman chaired a symposium on "Formative Justice and Educational Politics," with papers by Seth Halvorson, James Stillwaggon, René Arcilla, and Winston C. Thompson, from which I benefited greatly. Thompson and Stillwaggon subsequently edited a special issue of the Teachers College Record (Vol. 118, October 2016), which featured updates of their papers along with a paper on motivation and formative justice by Darryl de Marzio and Timothy Ignaffo, and one by Avi Mintz putting the concept to the test in Plato's Republic, and a

short version of the present essay. I wish I could do justice to their perspectives here and am pleased to substantively respond to some of their points in the annotated version.

As for so many, the 2016 presidential election threw me off course. I bogged down disoriented as I tried to complete and publish the annotated version of this manuscript. Two fine scholars, Grace Roosevelt and Megan Laverty, did not let me call it quits, however. They helped me seek a publisher for the full annotated text, which evoked some interest along with significant doubts whether the book could find an appropriate audience with dense apparatus dwarfing its primary text. After a detour to complete "Dewey in His Skivvies: The Trouble with Reconstruction" (Educational Theory, vol. 67, no. 5, October 2017), I finally saw the real book, this short one, which might stand on its own, both online and in print.

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