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'David Schlosberg's *Defining Environmental Justice* is political theory at its best, providing an invaluable review of the contemporary literature, subverting traditional political categories and distinctions, and suggesting new directions for politics and policy . . . *Defining Environmental Justice* breaks important ground not only in advancing political theory's engagement with nature but in crafting a theoretical and political framework that draws together moral consideration for nonhuman nature with environmental justice concerns . . . [Schlosberg] offers a powerful critique of liberal theories of justice and their often singular focus on distribution, offering a more inclusive notion of justice that embraces recognition, capabilities, and participatory democracy.'

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'*Defining Environmental Justice* should be required reading for anyone interested in understanding the environmental justice movement. David Schlosberg's careful, thoughtful study makes sense of the often perplexing notion of justice at the heart of the movement. Drawing on and extending recent innovations in justice theory, he argues that the "justice" of environmental justice is best understood not as a unitary concept but as a set of multi-layered, interconnected discourses encompassing distributive issues, recognition, participation and community functioning. He further makes the provocative claim that this expansive, plural discourse of justice can usefully be applied to humans' relationship with nature itself. The result is a richly nuanced and insightful contribution to the literature on social movements, justice theory and contemporary environmentalism.'

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SCHLOSBERG DEFINING ENVIRONMENTAL JUSTICE OXFORD



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# DEFINING ENVIRONMENTAL JUSTICE

*Theories, Movements, and Nature*

DAVID SCHLOSBERG



# 1

## Defining Environmental Justice

What, exactly, is the 'justice' of environmental justice? What do activists and movements mean when they employ the term? And what is the relationship between environmental justice, which addresses environmental risks within human communities, and ecological justice, focused on the relationship between those human communities and the rest of the natural world? Do those who speak of environmental justice, and those who call for ecological justice, understand the concept of 'justice' in similar ways? Those are my central questions, and the basic task of this book is to explore what is meant by justice in discussions of both environmental and ecological justice.

Activists and academics within the environmental justice movement in the USA and globally have been discussing the meaning of justice for two decades. Likewise, theorists concerned with doing justice to nature have put forth numerous accounts of ecological justice. I certainly do not claim to be the first down this trail. But as someone who has studied both the movements and theories, I have found these discussions inadequate and somewhat frustrating—there has always seemed to be something missing in them. Actually, I see two major gaps that need to be addressed.

First, while the justice literature in political theory has expanded over the past few decades, the innovations there have rarely been applied to the environmental justice movement. For years, justice studies were defined by, and proceeded from, the theories of John Rawls. They focused on a conception of justice defined solely as the distribution of goods in a society, and the best principles by which to distribute those goods. I have no criticism of justice conceived in distributive terms like this; not only does such an approach make sense theoretically, but, importantly, many social movements also defined justice in terms of what their constituents got—and did not get—in a given society. As I describe, many of the

defining arguments of the environmental justice movement, for example, were all about distributional patterns that were violations of any number of distributive principles of justice.

The problem that I see is *not* that distributive theories of justice cannot be applied to environmental justice. Rather, the issue is that justice theory has developed a number of additional ways of understanding the processes of justice and injustice—and these developments have rarely appeared in the literature on the environmental justice movement. Authors such as Iris Young, Nancy Fraser, and Axel Honneth argue that while justice must be concerned with classic issues of distribution, it must also address the processes that *construct* maldistribution; they focus on individual and social recognition as key elements of attaining justice. Central here is not only the psychological component of recognition, but also the status of those less well-off in distributional schemes. In addition, Amartya Sen and Martha Nussbaum have developed a theory of justice that focuses on the capacities necessary for individuals to fully function in their chosen lives. The focus is not just on the distribution of goods, but also more particularly on how those goods are transformed into the flourishing of individuals and communities. The approach gives ethical significance to this functioning and flourishing, and finds harm—injustice in fact—in the limiting of them. Capabilities theory examines what is needed to transform primary goods (if they are available) into a fully functioning life—and what it is that interrupts that process. In addition, contemporary theories of justice also often have a component of procedural or participatory justice. For Fraser, participation is the third leg of a triad that also includes distribution and recognition; for both Sen and Nussbaum, participation is a key political capability, necessary for individuals to ensure functioning. In essence, many contemporary theories of justice refer to a standpoint that is broader than just how things are distributed. This standpoint includes our intuitions and theories about recognition, participation, and the way people function—they also relate as much to *groups* as to individuals.

Yet for all of these developments in justice theory, very little has been applied to the environmental justice movement. Most discussions of environmental justice focus on maldistribution—the fact that poor communities, indigenous communities, and communities of color get fewer environmental goods, more environmental bads, and less environmental protection. Some examiners of the movement and the concept of environmental justice have emphasized the importance of procedural justice and participation (Lake 1996; Shrader-Frechette 2002). And a number have

focused on issues of recognition, while not directly referring to the theoretical literature; these examine the cultural and racial barriers to individuals and communities getting a just distribution (see, e.g. Pulido 1996 and most of Bullard's work). However, there has been no thorough and comprehensive exploration of environmental justice movements with the goal of examining the conceptions and discourses of justice that they use. The argument here is that movements use a wide range of conceptions of justice, and we can find arguments in those movements for distribution, recognition, participation, and capabilities. The environmental justice movement supplies ample evidence that all of these conceptions of justice are used in practice, and that, in fact, a comprehensive understanding of the way that movements define the 'justice' of environmental justice must include all of these discourses.

It should be no surprise that such diverse definitions exist within groups and movements that organize around a conception of environmental justice. Many recent theorists of justice—Young, Fraser, Sen, and Nussbaum, for example—explicitly note the influence of social movements on their own definitions. I argue, however, that movements add more to the justice discourse than many of these theorists account for, and there are two points in particular that justice theorists should pay attention to. For one, groups and movements often employ multiple conceptions of justice simultaneously, and accept both the ambiguity and the plurality that come with such a heterogeneous discourse. Second, and crucially, movements also apply conceptions of justice not only to individuals, but to groups and communities as well. Here, movements have no problem stepping beyond the almost unanimous consensus of justice theorists that definitions of justice apply to individuals alone. Environmental justice movements explore, represent, and demand justice—fair distribution, recognition, capabilities, and functioning—for communities as well as individuals. These movements are most often broad, plural, and inclusive; likewise, their definitions and discourses of justice range from those based on individual distributive complaints to those based on the survival of community functioning.

So the distance—and relationship—between justice theory and environmental justice movements is the first gap I hope to span in this book. I use the first to explore the latter, and use the latter to expand upon the first. My hope is to bring empirical evidence and activist definitions to the attention of theorists of justice for their serious consideration, and to offer activists and movements a theoretical overview of the positions and demands they express.

The second gap that I explore in this book is the disconnect between environmental justice on the one hand and ecological justice on the other. The vast majority of work on environmental justice does not concern itself with the natural world outside human impacts, and most work on ecological justice does not pay attention to issues raised by movements for environmental justice. There are, certainly, exceptions. Dobson's work (1998, 1999) and Low and Gleeson (1998) attempt to bridge environmental and ecological justice, and there are interesting collections that broach the topic (e.g. Cooper and Palmer 1995). But the fact is that most of the literature on environmental justice exists independently from the literature on ecological justice—most environmental justice work (e.g. Cole and Foster 2001; Bullard 2005) does not address doing justice to nature, while most ecological justice writing (Baxter 2005; Wenz 1988) focuses on just that. I want to explore the important differences between environmental and ecological justice, but also speak to the potential of using the same language(s) of justice in addressing both sorts of issues and relationships. I pay particular attention to movement groups that bridge this gap in their literature and actions, such as indigenous environmental groups and movements for food security and climate justice. My central question is whether we can apply the same conceptions of justice, and the same broad discourse of justice, to both sets of issues—environmental risks in human populations and the relationship between human communities and nonhuman nature. One major claim of the book is that we can draw parallels between the application of notions of justice as distribution, recognition, capability, and participation in both the human and nonhuman realms. I argue that a broad set of theoretical concerns, and notions, and tools can be applied to both environmental and ecological justice.

The point of this second task is really twofold. First, as noted above, it simply seems important to examine the potential of the same theoretical discourses of justice as they apply to different issues in environmental politics. Academics and activists alike should not be talking past one another on a political discourse as salient and encompassing as justice. But, related, I am also interested in the possibility of illuminating a broad discourse of environmental and ecological justice that can frame arguments in ways that advocates for both can relate to. I fully agree with what Taylor (2000: 562) concluded in her examination of the framing of the concept of environmental justice in the USA. Taylor claims that the concept of environmental justice bridged a number of issues, and linked numerous problems in one frame. As such, it was effective because it did

not attempt to create a new discourse from scratch, but instead incorporated highly salient issues into a broader frame that many could identify with. In being a broad, plural, and inclusive discourse, environmental justice as an organizing frame was quite successful. What I am suggesting is that we extend that framework even further, to include the conception of ecological justice as well.

If both environmental and ecological justice concerns can be addressed using the broad language of distribution, recognition, capabilities, and procedural justice, then a larger frame can be established that could link both sets of concerns. The model here, in a way, is Rachel Carson's *Silent Spring* (1962); there, Carson was able to bring together these two previously disconnected environmental concerns—that for the natural world and the animals that inhabit it, and the concern for human health and industrial impacts on individuals and communities. Carson helped to inspire a larger and more diverse environmental movement by illustrating the connections between the issues, and so broadening the discourse beyond one or the other concern. I certainly do not claim to approach the talent or eloquence of Carson; my point is only that I am inspired by her accomplishment of expanding an inclusive conception of the 'environment'. I see the same sort of potential to bring together environmental and ecological justice into a larger, broader, more encompassing discourse.

Now this approach goes against the arguments of other recent academic examiners of environmental justice. Dobson (1998, 2003) saw little overlap between the social justice community and those arguing for environmental sustainability. Dobson, however, only looked at notions of distributive justice in coming to his conclusion; if justice were to be defined much more broadly, then both environmental and ecological justice communities might share a common, expansive, discourse of justice. More problematically, Getches and Pellow (2002) insist on *restricting* the operational definition of environmental justice, and limiting the types of communities that could make environmental justice claims. While they claim pragmatic reasoning here—keeping the movement agenda manageable—their advice goes against the practice of the movement and against a thorough understanding of what the justice of environmental justice is. Such an approach limits the ability of actors to make connections with other movements and concerns. Similarly, Pellow and Brulle (2005: 16) insist that environmental justice activists 'must bound and limit the purview of their concerns. If instead they seek to explain every problem at the intersection of development and social inequality

in terms of environmental injustice, surely their movement will lose its explanatory (and mobilizing) power.'

On the contrary, the following work makes exactly the opposite argument. The proposition here is that a more thorough definition of justice—one that encompasses the expressed concerns of environmental justice groups, the conception of justice to the nonhuman world, and the recent contributions of justice theory—can offer a broadly accessible, plural, and workable frame. I am not arguing for a single, all-inclusive, holistic theory of environmental and ecological justice; rather, the point is to expand the discourse of justice, and legitimize the use of a variety of tools and notions as they apply to various cases. Issues of inequality, recognition, participation, and the larger question of the capabilities and functioning of individuals and communities—human and nonhuman—can come together in a broad and inclusive discourse that can strengthen the explanatory (and mobilizing) power of the movements that use the language of environmental and ecological justice.

I proceed in four parts. In Part I, in Chapter 2, I explore recent theories of justice, focusing on those that move beyond a sole focus on the traditional distributive paradigm. Particular attention is paid to various theories of recognition, and I defend recognition as a distinct element of justice against theorists who insist that it can be collapsed within a distributive framework. I also explore the capabilities approach of Sen and Nussbaum (including some of the differences between them), and argue how each of these elements of justice can be seen at both the individual and group level. Ultimately the argument is that a thorough understanding and approach to justice requires us to see the linkages between distribution, recognition, capabilities, and participation.

In Part II, I examine how movements for environmental justice define the concept of justice. Chapter 3 looks specifically at the environmental justice movement in the USA, and Chapter 4 examines global movements that use environmental justice as an organizing frame. There are some key differences in the way environmental justice is mobilized in the USA, as compared to global movements. Groups in the USA self-identify as 'environmental justice' organizations, while in a number of global environmental movements—on issues such as globalization, food security, indigenous rights, and climate justice—environmental justice is incorporated as one organizing principle or demand among many. Groups in the USA are also less likely than these global movements to make connections between environmental and ecological justice. In both the USA and global movements, however, groups use a wide variety of conceptions of justice;

justice is understood in multiple and interlinking ways, and is applied to both individuals and, importantly, to communities.

Part III turns to understandings of ecological justice—justice to the nonhuman part of the natural world. Chapter 5 is an overview, and critique, of many existing distributive theories of ecological justice. After a discussion of some of the key difficulties identified by liberal theorists in applying the concept of justice to the natural world, I examine a variety of theories that attempt to expand liberal and distributive notions of justice to future generations of humans and to nonhuman nature. Here, I also address the lack of attention in much of this literature to either movements or recent developments in justice theory. I discuss why most academic conceptions of ecological justice based in distribution are crucial, but yet incomplete and inadequate in their definitions and prescriptions. Chapter 6 turns to the potential of developing a theory of ecological justice that moves beyond a sole concern with the distributive paradigm. The central focus is on bringing conceptions of the recognition of nature, and of capabilities for the nonhuman world, into a broad and comprehensive understanding of ecological justice. The point is not to develop a singular holistic and universal theory of ecological justice, but rather to illustrate the potential of various discourses, concepts, and frames as they can be extended to individual animals, communities, and natural systems.

Part IV explores some of the implications of my findings. Chapter 7 addresses the difficult question of how to reconcile the multiple and multifaceted notions of justice that exist simultaneously in environmental and ecological justice. Rather than insisting on a singular, overarching, and static definition of justice, the point is that we really need a plurality of themes to apply to particular cases as the context requires. I argue for a pluralist approach that allows for unity among different concerns and movements while avoiding the uniformity that is so often debilitating in constructing broad discourses and movements. Finally, I conclude on a pragmatic note, with a chapter on how environmental and ecological justice can be applied in both state political practice and the public realm. This conclusion explores practices of ecological reflexivity and political engagement, and suggestions for democratic and institutional transformations, which can help us implement a broad and pluralist notion of environmental and ecological justice.

## 2

# Distribution and Beyond: Conceptions of Justice in Contemporary Theory and Practice

How are we to begin our definition of environmental justice? I start with an overview of the conceptions that have been generated by political theorists over the past few decades. Admittedly, however, my approach is not representative of the literature in justice theory written in that time; to do so would be to focus about 95 percent of my efforts on conceptions of distributional justice. Rather, my discussion begins, only briefly, within that familiar realm. The point here is not to attempt a comprehensive or even basic overview of theories of just distribution; many others dedicated to the approach have done so quite well. More simply, my aim is to lay out the basic concerns of distributional justice, in order to contrast them with the concerns of those that attempt to either refocus, or expand upon, the distributive paradigm. In particular, the conception of recognition as an independent and significant component of justice is examined in some detail, with a focus not on *replacing* distribution, but instead on exploring the possibility of *combining* numerous concerns into a broad and multi-faceted approach to justice. I also examine the role of participation and procedural justice within a larger conception of justice. Finally, I turn to capabilities theory, which can be seen as a link between distributive, procedural, and recognition-based conceptions of justice.

One key problem with contemporary liberal theories of justice is that recognition, and its link to both distribution and to participation, is simply under theorized. In the thirty-five plus years since Rawls's opus *A Theory of Justice*, we have seen a micro-industry within political theory dedicated to justice as fairness, impartiality, models of distribution, and the like—but very, very little on what even Rawls admits is key to the

distributional concern: respect and recognition. That recognition is an element of justice should be uncontroversial; that it has been so neglected should be admitted and addressed. One simple claim of this book is that justice, in political practice, is articulated and understood as a balance of numerous interlinked elements of distribution, recognition, participation, and capability. While later chapters explore this empirical reality in some detail, the premise here is, unfortunately, that the academic study of justice is not quite so balanced. The point, however, is not to dismiss distribution, or to call for a move *beyond* distribution; it is simply to put it in its place alongside other components of a comprehensive understanding of justice.

### Justice as Distribution

In the past nearly four decades of the literature of political theory, justice has been defined almost exclusively as a question of equity in the distribution of social goods. Brian Barry (1999) insists that the concept of justice only applies where some distributive consideration comes into play; other issues are merely questions of right and wrong. Justice, in this reading, is fully contained within the set of rules that govern our distributional relationship. As Brighouse (2004: 2) claims in his recent survey of theories of justice, the 'fundamental question is this: how, and to what end, should a just society distribute the various benefits (resources, opportunities, and freedoms) it produces, and the burdens (costs, risks, and unfreedoms) required to maintain it?' The subject of justice, then, is the very basic structure of a society; it defines how we distribute various rights, goods, and liberties, and how we define and regulate social and economic equality and inequality.

John Rawls's classic *A Theory of Justice*, for example, defines justice as 'a standard whereby the distributive aspects of the basic structure of society are to be assessed'. Justice, then, defines 'the appropriate division of social advantages' (Rawls 1971: 9–10). Rawls's initial task, and his primary innovation, is the development a fair way of *developing* such principles of distribution. For Rawls, in order to develop a right theory of justice, we are to step into an imaginary 'original position', behind what he calls a veil of ignorance, to a place where we would not know our own strengths and weaknesses or our own place in the grand social scheme of things. Without knowing one's station in life, or where one would wind up after developing principles of justice from an impartial position, Rawls argues

that we could develop a particularly fair notion of justice that everyone could agree with. With such an impartial position in mind, Rawls offers two basic, defensible, principles of justice: everyone would have the same political rights, and the distribution of economic and social inequality in a society should benefit everyone, including the least well-off. The whole point of Rawls's notion of 'justice as fairness' is justice as just distribution—or, more properly, the rules that govern a just distribution of social, political, and economic goods and bads.

Rawls represents the focal point and fount of liberal justice theory: fair distributions away from any substantive agreement on what we each believe as 'good'—pictures of the good life. Barry (1995, 2005) has taken the lead, following Rawls, on this notion of justice; his central argument reiterates that we should agree on the *rules* of distributive justice while remaining impartial to different notions of the good life individuals have. This line of justice theory represents an impartial, proceduralist approach, and is probably the most popular conception of justice in the academy. Such an approach differs from more substantive and consequentialist theories of distributive justice—for example, a utilitarian conception that focuses more on the specific outcomes of the distributive process, or substantive notions that flow from a particular idea of what a good society should look like. Other distributive theories in the past three decades focus more specifically on what is to be distributed (goods, rights), and what the principles governing those proposed distributions should be (e.g. need, desert, or entitlement). Overall, the point is that such variations on the distributive approach to justice have been the dominant discourse in justice theory over the past few decades.

Again, my task here is not to expound on the various theories of distributive justice; rather it is simply to note the focus on distribution in justice theory.<sup>1</sup> Rawls not only blazed the trail, but also left a series of new trailheads in his wake. In all of these approaches, the central conceptual framework of a theory of justice is focused on how and what gets distributed in the construction of a just society.

### Justice as Recognition—Definitions

But such a focus has not been uniformly accepted, and some recent theorists have veered from this central path. Numerous challenges have been made to the traditional distributional way in which the concept of justice has been approached in the political theory literature. Beginning in 1990

with the publication of Iris Young's *Justice and the Politics of Difference*, and continuing most forcefully with the work of Nancy Fraser (1997, 1998, 2000, 2001), the distributional approach—or more specifically the sole emphasis on distribution without an examination of the *underlying* causes of maldistribution—has been challenged. For these theorists and others, one of the key inadequacies of theories of liberal justice is its singular focus on the development of, and debate around, ideal and fair processes for the distribution of goods and benefits. Moreover, these critiques of distributional theory are thoroughly influenced by the real world of political injustice, rather than the imagined realm of an original position. With the examination of real injustices as the focus, these critics argue that there is much more to injustice than maldistribution, especially when one begins to look at exactly who is left out of actual distributions.

Recognition is the central concern here, as both Young and Fraser—along with other theorists such as Honneth (1995, 2001) and Taylor (1994)—contend that a *lack* of recognition in the social and political realms, demonstrated by various forms of insults, degradation, and devaluation at both the individual and cultural level, inflicts damage to oppressed individuals and communities in the political and cultural realms. This is an injustice not only because it constrains people and does them harm, but also because it is the foundation for distributive injustice. Rawls and other liberal theorists focus on ideal schemes and processes of justice in liberal societies; both Young and Fraser explore one of the key *real* impediments to such schemes, and how they can be addressed through recognition.

Young (1990) made the earliest direct and forceful challenge to theories of justice based solely on issues of distribution, criticizing those theories for focusing overwhelmingly on schemes of distribution, while ignoring the social context in which unjust distributions exist. Simply put, Young insisted that distributional patterns happen for a reason, and the reality of domination and oppression must be taken as the starting point for any thorough and pragmatic theory of justice. Young argues that while theories of distributive justice offer models and procedures by which distribution may be improved, none of them thoroughly examines the social, cultural, symbolic, and institutional conditions underlying poor distributions in the first place. The critique is not simply one against the various models of distributive justice, but of the way distributive theories simply take goods as static, rather than due to the outcome of various social and institutional relations. The claim here is straightforward: While distributional issues are crucial to a satisfactory conclusion of justice, it is

a mistake to reduce social justice to distribution' (p. 1). In moving toward justice, issues of distribution are essential but incomplete. Injustice is not solely based on inequitable distribution or, more to the point, there are key reasons why some people get more than others.

Young asks not only what distribution looks like, but also—crucially—what *determines* poor distributions. Part of the problem of injustice, and part of the reason for unjust distribution, is a lack of recognition of group difference. Distributional injustice, she argues, comes directly out of social structures, cultural beliefs, and institutional contexts. If distributional differences are constituted, in part, by social, cultural, economic, and political processes, any examination of justice needs to include discussions of the structures, practices, rules, norms, language, and symbols that mediate social relations (1990: 22). Young begins with the argument that 'where social group differences exist and some groups are privileged while others are oppressed, social justice requires explicitly acknowledging and attending to those group differences in order to undermine oppression' (p. 3). The central question regarding distributional justice is not, in the first instance, 'what is the best model for distribution', but instead 'how does the current maldistribution get produced?' For Young, distribution is not the only problem; a concept of justice needs to focus more on the elimination of institutionalized domination and oppression, particularly of those who represent difference and remain un-, mis-, or malrecognized.

Likewise, Nancy Fraser's project has been focused on demonstrating that justice requires attention to *both* distribution and recognition; justice is, at least, 'bivalent' in this sense. Maldistribution and misrecognition are distinct, separate forms and experiences of injustice, though they are often linked in practice. Fraser argues that culture is a legitimate and necessary terrain of struggle—a sight of justice in its own right, yet also deeply tied to economic inequality' (2000: 109). For Fraser, misrecognition is tied to institutional subordination and inequity; her focus is on both the structural nature of the construction of subordinate and disrespected identities and communities, and on the maldistribution experienced by these subjects. As with Young, Fraser insists that we have to examine the 'why' of inequity, and how the social context of unjust distributions is a unique and necessary subject of justice theory; this is the key to both understand and remedy existing injustices. Examining the context of oppression—rather than simply either existing distributions, better distributions, or ideal procedures to procure just distributions—is central to Fraser's justice project. Whether, and how, individuals and communities are recognized is crucial.



In the political realm, Fraser calls for 'participatory parity' of all affected parties in the polity as the necessary procedure to alleviate both distributional and recognition-based forms of injustice. As Fraser argues, such a need for participation illustrates not just the need for a bivalent understanding of justice, but a trivalent one. The point, as I return to shortly, is that both injustices and their remedies are integrally linked.

In the social and cultural realm, the key to understanding recognitionally injustice lies in understanding the social norms, language, and mores that mediate our relation between those who are denigrated and so less well-off in the scheme of justice. The argument is that mis- or malrecognition is a cultural and institutional form of injustice. This type of cultural injustice is 'rooted in patterns of representation, interpretation, and communication' (Fraser 1998: 7). In confronting the injustices of cultural domination, nonrecognition, and lack of respect, various movements focus on remedies based in cultural, symbolic, and, ultimately, institutional change. The point is to examine the range of social and cultural values and practices that impede the full recognition of a group as an accepted member of the moral and political community. There are both sociocultural and political elements to this type of recognition. In the social realm, Dean's notion (1996) of 'accountability' is very useful. In Dean's framework the focus is on the process of the construction of the 'status' of the misrecognized; she insists we uncover where accountability and responsibility lie for both the construction of problematic notions and the reconstruction of ones based in more authentic recognition. Here, the conception of justice occupies social and cultural space beyond the bounds of the state.

#### *Psychology versus Status*

Now, what one means by recognition is nearly as contested as the concept of distribution. While there are numerous approaches to the term, I want to focus on two key definitions and the discussions surrounding them. Charles Taylor (1994) and Axel Honneth (1992, 1995, 2001), key proponents of the concept of recognition as an element of justice, focus thoroughly on the individual psychological aspects of the need for recognition. The central idea for both authors is that self-worth comes from the recognition given by others. As Honneth argues, we rely on the recognition of others for our own human dignity and integrity, hence the need for reciprocal and intersubjective recognition. 'The language of everyday life is still invested with a knowledge—which we take for

granted—that we owe our integrity, in a subliminal way, to the receipt of approval or recognition from other persons' (Honneth 1995: 188). Taylor insists that, 'misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being' (1994: 25). In this sense, then, 'recognition is not just a courtesy we owe people. It is a vital human need' (p. 26).

Taylor's discussion of recognition is limited however, and so has not become as illustrative of this aspect of justice theory as has Honneth's. Taylor distinguishes between two kinds of recognition: (a) the equal dignity of all, and (b) the politics of difference, where everyone is recognized for their particular distinctiveness. 'Everyone should be recognized for his or her unique identity.... With the politics of equal dignity, what is established is meant to be universally the same, an identical basket of rights and immunities; with the politics of difference, what we are asked to recognize is the unique identity of this individual or group, their distinctness from everyone else' (pp. 37–8). This latter form of recognition causes Taylor some distress. The 'demand for equal recognition extends beyond an acknowledgment of the equal value of all humans potentially, and comes to include the equal value of what they have made of this potential in fact. This creates a serious problem...' (p. 42). At this point, unfortunately, Taylor's discussion degenerates a bit, as he moves to criticize what he calls at various points 'incoherent', 'radical', 'subjectivist', 'half-baked', 'neo-Nietzschean' theories that support multiculturalism (pp. 66, 70). As a number of responses have pointed out, Taylor seems to want only some identities recognized. Recognition becomes especially difficult for him when it comes to the margins, innovation, newness, and any challenge to the universalizability of identity.<sup>2</sup>

Honneth's discussion is both a bit more complex and a bit more accepting of difference than Taylor's. For Honneth (1992: 190–1; 1995: 132–4), there are three key forms of disrespect: the violation of the body (here Honneth refers specifically to torture), the denial of rights, and the denigration of ways of life.<sup>3</sup> Each, Honneth insists, has an inherent psychological dimension. Recognition here is much broader than a simple tolerance; individuals must be fully free of physical threats, offered complete and equal political rights, and have their distinguishing cultural traditions free from various forms of disparagement. But Honneth remains firmly attached to the psychological interpretation and state of the individual. For example, physical injuries only become a moral injustice for Honneth if victims view them as intentionally disregarding their personal well-being (2001: 48). It is not just the inflicting of pain

that is the injustice, but the *perception* of misrecognition on the part of the victim. All misrecognition then, even systemic social and cultural denigration and domination, is most importantly, for Honneth, a psychological condition.<sup>4</sup>

This psychological recognition, argue both Taylor and Honneth, is a crucial element of justice. As with Young, both Taylor and Honneth contend that a *lack of recognition*—demonstrated by various forms of insults, degradation, and devaluation at both the individual and cultural level—is an injustice not just because it constrains people or does them harm, but because it ‘impairs these persons in their positive understanding of self—an understanding acquired by intersubjective means.’ (Honneth 1992: 189). Taylor (1994: 25) asserts that

[t]he thesis is that our identity is partly shaped by recognition or its absence, often by the *misrecognition* of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them confining or demeaning or contemptible picture of themselves. Nonrecognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.

Lack of recognition, then, is a harm—an injustice—as much as a lack of adequate distribution of various goods.

Fraser, on the other hand, argues that this approach to the politics of recognition is too psychologically based; she turns her attention to the social status of individuals and communities, and insists on a structural understanding of misrecognition more as an institutional practice than an individual experience. For Fraser, a focus on social relations, rather than psychology, helps us understand misrecognition as a ‘status injury’ (Fraser 1998: 25). Misrecognition is not freestanding or psychological, but an ‘institutionalized relation of social subordination’ (Fraser 2000: 113). It is this institutional status injury, not psychological damage, which is central to Fraser’s theory of justice.

Fraser identifies three status-based, as opposed to psychological, definitions and processes of misrecognition. First is a general practice of cultural domination; second is a pattern of nonrecognition, which is the equivalent of being rendered invisible; and third is disrespect, or being routinely maligned or disparaged in stereotypic public and cultural representations (Fraser 1998: 7). Fraser is much more comfortable identifying and relying on these structural, social, and symbolic indicators of misrecognition or lack of respect, as they do not rely on the psychological interpretation or feeling of the victim. While Fraser’s initial concern is with gender

relationships, the status approach is a viable way to analyze a variety of structural injustices, including that of individuals and communities suffering environmental injustice. More broadly, I argue later, the status approach will be a useful way to examine the way that nonhuman nature is maligned and disrespected in human culture in all three ways outlined above.

There have been numerous arguments between Fraser and Young (reprinted in Willett 1998) and Fraser and Honneth (2003) regarding the definition and nature of recognition. The argument with Young centers mostly on the relative emphasis on recognition versus redistribution. With Honneth this question is argued as well, but the key difference is between the psychological versus structural nature of recognition. As is usually the case with academic dichotomies, there is validity in both sides. As I discuss below, one must take both recognition and redistribution seriously in any contemporary theory of justice, and Fraser certainly has made that argument. In the argument with Honneth, however, Fraser overstates her case in an attempt to move away from a victim-centered understanding of recognition.

Fraser argues that Honneth’s politics of recognition is problematic because it is tied singly to self-realization; she argues that he does not recognize the key structural and institutional manifestations of misrecognition (Fraser 1998: 24). But Honneth is keenly interested in the importance of self-esteem in the political realm, and the fact that such self-esteem comes from recognition by others—not just from individuals, but also from culture and the state—leads to a very thorough critique of the effect of cultural and political institutions. Honneth’s second notion of disrespect specifically ‘refers to those forms of personal disrespect to which an individual is subjected by being structurally excluded from the possession of certain rights within a society’ (Honneth 1995: 133). His third form of disrespect includes the cultural and institutional concurrence in the denial of self-esteem. Honneth argues that a focus on self-realization *and* the institutional limits to both self- and other-based recognition is at the core of existing social movement struggles. So while the *experience* of misrecognition is psychological, the *implications* of Honneth’s notion of recognition go far beyond a simple call for internal self-realization, as Fraser asserts: a structural and institutional critique is an absolutely necessary part of the call for recognition.

Still, Fraser correctly argues that while it is simple to dichotomize the definition of recognition into the psychological versus the structural, we can see recognition on both dimensions simultaneously; misrecognition

may be both individually experienced and structurally constructed. For example, civil rights protesters who carried signs proclaiming, simply and poignantly, 'I Am a Man'—certainly a call for more than education or voting rights—conveyed the issues of both individual self-worth and institutional and cultural status. While it is true that there is a difference between understandings of recognition based in psychology and in status, the two are not mutually exclusive in either a theory of misrecognition or in suggestions for its alleviation. The key point remains that recognition is central to a theory and practice of justice, though there are differences in how to analyze its absence.

### Distributive Critiques of Recognition

For all of this discussion of recognition as an element of justice in recent theoretical literature, the concept is not something readily accepted by many traditional distributive justice theorists. Most such theorists reading these words are probably already articulating their disagreements, as there has been quite a resistance to the argument for recognition as an element of justice. For reasons I do not fully understand, many liberal theorists see the discussion of recognition as an element of justice as a direct attack on the intellectual legacy of Rawls. Their response is usually that Rawls thought of it first, and incorporated the question of recognition into his distributive paradigm.

While many theorists readily admit that recognition, in particular self- and social respect, is crucial to a theory of justice, they argue that it is usually (and best) addressed within the distributive framework. Most often, then, recognition is rejected as a category mistake; simply put, recognition is not a *distinct* issue of justice. Most of these theorists simply want to include recognition as a precondition within the distributive sphere. But there is some confusion over the issue, however, in particular over whether recognition is an *assumption* and *precondition* of distribution, or whether it is a *good* to be distributed. Rawls himself insists that self-respect is both a precondition and a result of his two principles of justice (1993: 318–20).

One argument is that recognition and respect are *inherent preconditions* for distributive justice. Equality of persons, which is at the center of liberal theories of justice, starts with an assumption of equal respect for all citizens. Rawls calls self-respect a primary good (1971: 440), even, perhaps 'the main primary good' (p. 544, though that was dropped to the end of

a list of five in 1993: 181). This precondition argument is straightforward; after all, one must be recognized and respected in order to be included behind the veil of ignorance in Rawls's original position, and one's station in life—whatever it may be—is also implicitly recognized. Interestingly, Rawls (1971: 440) refers to many of the same psychological needs that Honneth attaches to recognition. So it is clear that recognition and respect are crucial to Rawls and his theory of justice.

The same holds for many other liberal theorists. Walzer (1983: xii), for example, notes in his classic *Spheres of Justice* that recognition is central to the moral question of justice. But Walzer also simply assumes recognition as an *inherent* trait of just relations. Likewise, Miller (2003) seems quite sympathetic to the arguments for recognition and the respect that comes with it, but again argues, following Rawls, that respect and dignity are *preconditions* for distributive justice.<sup>5</sup> As recognition is included in the definition of distributive justice, Miller dismisses the key claim of recognition as a distinct category of justice. Miller, in summary, represents the position of many liberal theories of justice, where recognition is assumed, and subsumed, within the distributive sphere of justice. The upshot here is that some theorists of justice argue that recognition and respect are accounted for in theories of distributional justice.

The most basic critique of this assumption argument is that while it may work in theory, recognition is not simply assumed in the real world of injustice. In fact, as critical theorists, both Fraser and Honneth consciously take their prompts from the actions and demands of recent social movements. There, the battle for recognition is as large as the one for fair distribution. In other words, the assumption argument is problematic on pragmatic and empirical grounds. It may be a comfort to argue that recognition is included in one's *theory*, but what is to be done when that is not the case *in practice*? Theorists may argue that if various distributional ideals, or ideal processes, were implemented, then recognition would be inherent and assumed. If, for example, all communities were exposed to the same amount of environmental risk no matter their race, class, or sociocultural status, then those communities would not be demanding recognition, as that recognition would be a precondition of the just distribution.

The response to such a claim is that without recognition, such an ideal distribution *will never occur*. If existing maldistribution is related to misrecognition, then without recognition—and not just self-respect, but social and structural recognition—we will never have such ideal processes or outcomes. This is the case whether bad distribution results in a lack

of recognition or the lack of recognition leads to bad distribution (one of the issues in the Fraser–Honneth debate 2003). The claim made by distributional theorists that recognition is assumed offers no practical discussion of recognition, no link between a lack of recognition and existing distributional inequities, and no attention to the institutional structures and practices that mediate both recognition and distribution. Justice in theory may happen in isolation, neutrality, or behind a veil of ignorance, but that is simply not the case in practice. If the interest is about attaining *justice*, rather than attaining a sound *theory* of justice, recognition is central to the question and the resolution—and is not simply to be assumed. Again, the point here is that the assumptions of distributional justice simply do not stand in the empirical realm. This is the first, very pragmatic, reason for focusing on recognition as an element of justice.

Rawls and many liberal justice theorists also see respect and recognition as a *good* that can be distributed. While respect is an essential precondition to justice in the original position (Rawls 1971: 440), it is also one of the objects to be distributed in a just system. Yet Rawls never directly or explicitly discusses the distribution of respect as a good, only that it is related to the distribution of some material goods. So while it is clear that respect is crucial to Rawls and his theory of justice, he leaves us thinking about recognition in two different and contradictory ways—both of which continue to appear in the literature, and both of which are problematic.

It is tautological to argue, as Rawls does, that recognition is both inherent/presumed in a distributional system *and* something to be distributed by those systems. If it is a good that needs to be distributed, or redistributed, we cannot assume it to be so before such a distributive system is set up. If recognition does not exist in practice, then the status of those unrecognized as members of the community of justice must be addressed before any goods can be distributed to them. We cannot simply assume recognition as a precondition, or assert it can easily be distributed.

Miller directly addresses the question of recognition as a good, but to another problematic end. For Miller, recognition, which he defines as status, has both objective and subjective sides; this is not unlike the psychological and status definitions described above. But what this means for Miller is that the range of definitions of recognition is too wide, and so ‘we may be reluctant to think of recognition as something whose allocation can be regulated by interpersonal principles of justice’ (Miller 1999a: 10). Interestingly, Miller uses the difficulty of fully agreeing on

what recognition is to dismiss it either as a good or, more broadly, as something distributive justice can allocate. But Miller does not fully engage in an examination of what recognition *can* mean within a theory of justice.

Young dismisses the conception of recognition as a good, and yet uses the logic of this rejection to argue for a more thorough engagement with what it means to include the concept in a theory of justice. For Young, recognition is just not a ‘thing’ to be distributed, but a relationship, a social norm embedded in social practice. Young finds discussions regarding equal distribution of ‘opportunities’ or even of ‘rights’ problematic. When we give groups previously denied the right to vote or the right of free speech those rights, they do not come at the ‘expense’ of others—they are not redistributed from one to another, as is income or other goods. Recognition is not limited, materially, in the way goods are. One of the key problems of the theory of distributive justice, argues Young, is that it does not recognize the limits to the application of a logic of distribution’ (1990: 24).

In addition, while theories of distributive justice focus on the state as a neutral arbiter, a state cannot allocate recognition as it does other goods. Recognition cannot simply be distributed as, say, education or housing assistance. A state may set an *example* of recognizing a socially demeaned group and validate difference in the political realm (through voting, or marriage rights, for example), but recognition must happen as much in the social, cultural, and symbolic realms as in the institutional. The state may implement affirmative action, but social recognition for communities currently misrecognized and politically excluded is a broader issue. In other words, the concept of justice as recognition moves beyond a focus on the state alone for remedies, and brings justice theory squarely into the political space beyond the state.

This is not to say that states, for example, cannot distribute recognition in some respects. They can, for example, extend the franchise, implement affirmative action, or license gay marriage. I am not arguing that recognition can never be embodied as a good in some respects. But, as even Rawls argues, recognition is not *only* a good; it is also a precondition of membership in the political community. Recognition by the state is an example for others in the social sphere—where various types of misrecognition may continue. Recognition must be understood as a necessary aspect of political life—yet one that is neither assumed nor simply distributed by the state. We can strive for the ideal of the full recognition of all citizens, and for the state to distribute what it can of recognition and support

such recognition in the social, cultural, and economic realms. But such an ideal will take demands and work—not simply theoretical assumptions and assertions.

### A Misunderstanding and the Need for a Multifaceted Approach

Perhaps some of the animosity to the concept of recognition in the community of justice theorists is due to a misunderstanding of its proposed status in a broad theory of justice. More traditional liberal theorists may have been put off by Young calling the first chapter of her 1990 book 'Displacing the Distributive Paradigm'. Young and Fraser's early argument on the relative importance of distribution versus recognition may have added to the impression that the question was between distribution *or* recognition as the center of a theory of justice. Liberal theorists may also have been concerned that some theorists, such as Taylor, discuss recognition without substantive reference to distributional aspects of justice. Yet Young does not explicitly deny the importance of distributional theories of justice; rather, while 'distributional issues are crucial to a satisfactory conclusion of justice, it is a mistake to reduce social justice to distribution' (1990: 2). Fraser and Honneth as well have been very clear in their arguments that recognition is just one crucial element of justice, to be considered alongside distributional and participatory issues. A concern for recognition does *not* mean that we ignore distributional issues, but rather include them in a broader, inclusive understanding of justice.

The idea that recognition requires us to move *beyond* distribution, and *reject* a distributional approach to justice, simply does not appear in the recognition literature. Young, Fraser, and Honneth all insist that we have to look at the 'why' of inequity in order to both understand and remedy it. While more traditional justice theorists focus on ideal schemes and process of justice in liberal societies, recognition theorists have made clear that attention to the *real* impediments to such schemes must be addressed with attention to the existence or denial of recognition in both the political and sociocultural realms. Just as distributional theorists do not want their key concern subsumed in a theory of justice focused on recognition, recognition cannot simply be subsumed, or assumed, in a theory of distribution.

Unfortunately, it is not only traditional justice theorists who have insisted on a dichotomy between distribution and recognition by focusing

on one or the other conception of justice. In addition, some on the academic left have lamented the move toward justice as recognition, especially as it has been developed in the 'identity politics' of social movements, the post-material critiques of the 'cultural' left. The whole point of Fraser's forays into the examination of these various justice claims is to show that they are not antithetical.

Fraser argues that this split between 'social' justice and cultural politics—justice as equity and justice as recognition—represents a false dichotomy. Fraser insists that '[j]ustice today requires *both* redistribution and recognition' (1997: 12). 'Justice requires both, as neither is sufficient' (1998: 5). Communities, or collectivities, are, in fact, bivalent—they are often differentiated as a collective by both economic structure and the status order of society. In this case, neither a politics of redistribution nor one solely of recognition will suffice to remedy injustice. 'In general, then, one should roundly reject the construction of redistribution and recognition as mutually exclusive alternatives. The goal should be, rather, to develop a two-pronged approach that can address the twofold need for both' (p. 23).

Likewise, Honneth also notes a relation between material equity and justice as recognition. Honneth recognizes the more utilitarian struggle over the equitable distribution of goods, including cultural goods, as a motivator for collective action. This is contrasted with a model of social conflict that has the denial of social or legal recognition at its core. But Honneth does not want to replace the theoretical model for the former with one for the latter: 'It is important to stress... that this second model of conflict, based on a theory of recognition, should not try to replace the first, utilitarian model but only extend it' (1995: 165). Like Fraser, Honneth argues that social movements encompass both notions of justice.<sup>6</sup>

### Procedural Justice and the Necessity of a Linked Approach

But there is another dimension to the concept and practice of justice in addition to distribution and recognition; *procedural* justice in which justice is defined as fair and equitable institutional processes of a state. Some traditional justice theorists, such as Miller, use the assumptions of a procedural approach as another argument against recognition. Miller argues that respect and recognition are necessary preconditions to any theory of procedural justice. Here, once again, the claim is that if procedural

justice—however defined—is attained, recognition is included and so is to be assumed. As with the preceding discussion, however, the concern of many theorists of recognition, as well as some who focus on procedure, is the empirical reality of procedural injustice.

This sort of interpretation of procedural justice misses the point of those like Fraser, Honneth, and Young, who insist on a thoroughly integrated understanding of justice. Importantly, these theorists, and others, are beginning to note that the relationship between justice as equity and justice as recognition is played out in the procedural realm, as both hinder the ability of individuals and communities to participate. The point is to focus on the direct link between a lack of respect and recognition and a decline in a person's membership and participation in the greater community, including the political and institutional order. If you are not recognized, you do not participate; if you do not participate, you are not recognized. In this respect, justice must focus on the political process as a way to address both the inequitable distribution of social goods and the conditions undermining social recognition. Democratic and participatory decision-making procedures are then both an element of, and a condition for, social justice (Young 1990: 23); they simultaneously challenge institutionalized exclusion, a social culture of misrecognition, and current distributional patterns.

So while material distribution and recognition are two absolutely key notions of justice in the contemporary political realm, the focus on the process of justice, including demands for more broad and authentic public participation, is often seen as the tool to achieve both distributional equity and political recognition. Numerous theorists note the direct link between a lack of respect and recognition and a decline in a person's membership and participation in the greater community, including the political and institutional order.

Young, again, was one of the first to make this connection clear. In *Justice and the Politics of Difference*, one of Young's primary emphases is on institutions and the political process. While she argues that distributive justice does not go far enough because it does not include recognition of differences in the social realm—differences which go beyond who has how much; Young goes on to examine the institutional features that lead to injustices both in terms of distribution and in terms of recognition. The argument is that a concept of justice needs to focus more generally on the elimination of institutionalized domination and oppression. In order to accomplish this, justice must focus on the political process as a way to address a variety of injustices, including both the inequitable distribution

of social goods and the conditions undermining social recognition. This leads directly to her insistence on participatory democratic structures to address existing injustices based in both distribution and recognition.

In dealing with issues of justice beyond the distributive, Young (1990: 23) insists on addressing justice in the 'rules and procedures according to which decisions are made'.

The idea of justice here shifts . . . to procedural issues of participation in deliberation and decision making. For a norm to be just, everyone who follows it must in principle have an effective voice in its consideration and be able to agree to it without coercion. For a social condition to be just, it must enable all to meet their needs and exercise their freedom; thus justice requires that all be able to express their needs. (p. 34)

The central focus for Young, in addressing justice both as distribution and the recognition of difference, is on decision-making structures, and she argues for 'democratic decision-making procedures as an element and condition of social justice' (p. 23).<sup>7</sup> Recognition, then, along with inclusion in the political process, become the keys to relieving both social oppression and distributional inequity. As Young argues, such an expansion of the understanding of justice requires more of a state than simply revised distribution patterns.

For Honneth, one form of disrespect or misrecognition—the lack of rights—is directly linked to democratic participation. Citizens are subject to a form of personal disrespect when they are 'structurally excluded from the possession of certain rights within a given society. . . . [T]he experience of being denied rights is typically coupled with a loss of self-respect, of the ability to relate to oneself as a partner to interaction in possession of equal rights on a par with all other individuals' (1992: 190). There is a direct link, for Honneth, between a lack of respect and recognition and a decline in a person's membership and participation in the greater community, including their right to participate in the institutional order.

Likewise, Carol Gould (1996: 181) insists that taking differences seriously in public life requires 'a radical increase in opportunities for participation in contexts of common activity. . . . For if individuals have an equal right to determine their own actions and, further, if engaging in common activity is one of the necessary conditions for their self-development, then it follows that there is an equal right to participate in determining the course of such common activity'. Gould, like Young and numerous others who advocate a model of discursive or communicative democracy, insists that this participation needs to happen in a variety of social and

cultural institutions, as well as in the more specific context of politics and government.<sup>8</sup> Discourse models and calls for more participatory democracy are thoroughly compatible with the varied notions of justice in both theory and practice; they address the variety of cultural norms, social discourses, and the role of institutions of power in issues of both equity and recognition. In this sense, increased participation can also address issues of distribution and cultural misrecognition.

But perhaps the most thorough discussion of the integration of procedural justice in a broad and inclusive theory of justice is offered by Fraser. When 'patterns of disrespect and disesteem are institutionalized', Fraser argues (1998: 26), 'for example, in law, social welfare, medicine, public education, and/or the social practices and group mores that structure everyday interaction, they impede parity of participation, just as surely as do distributive inequities'.

The point here is absolutely crucial: it is not just that political and cultural institutions create conditions that hamper equity and recognition, but that both distributive inequity and misrecognition hamper real participation in political and cultural institutions. Issues of justice are not just bivalent, but trivalent. In this case, improved participatory mechanisms can help meliorate both other forms of injustice; but those forms of injustice must be addressed in order to improve participation. For a 'parity of participation', Fraser argues, we need both objective and intersubjective conditions to be met. Objective conditions include a distribution of resources to ensure participants' independence and voice. Subjective conditions require 'that institutionalized cultural patterns of interpretation and evaluation express equal respect for all participants and ensure equal opportunity for achieving social esteem' (p. 30). For Fraser, participatory parity comes with the satisfaction of two conditions: the 'respect in institutional patterns of cultural value', and the resources to enable participation (2001: 29). It is absolutely crucial to tie together social subordination and misrecognition with maldistribution. It is not a question of one or the other as the focus of justice, but of both simultaneously. Fraser is adamant on this: to remedy maldistribution we must focus on political-economic restructuring; but such considerations will only come along with recognition, where the remedy is in cultural and symbolic changes in how we regard the presently misrecognized. Only then will participatory parity, and procedural justice, be attained.

As many discursive and communicative democrats argue, moral respect and the recognition of the right of all to participate are key principles for improving and extending democratic action. Justice, then, requires not

just an understanding of unjust distribution and a lack of recognition, but, importantly, the way the two are tied together in political and social processes.<sup>9</sup> These notions and experiences of injustice are not competing notions, nor are they contradictory or antithetical. Again, justice is a trivalent package.

Liberal theorists, however, are not quite ready to accept either recognition or participation—and in particular their relationship. Brighouse (2004: 155–7), for example, notes that the focus on using the state to include misrecognized groups, even though some citizens' conceptions of the good would lead them to exclude fellow citizens, crosses the line of liberal impartiality. This is also one of Barry's lines of argument (2001) against cultural recognition and inclusion as elements of justice.

This insistence on impartiality to notions of the good, even when those notions devalue and disenfranchise fellow citizens, is both shortsighted and contradictory even for those who remain wed to a singular emphasis on distribution. Inclusion and respect are supposed to be the assumed starting point for a Rawlsian theory of justice. While recognition and participatory parity may be denied for some by those whose notion of the good is offended by their full inclusion in the polity, one cannot deny that such a right of participation is understood as one of the rights granted under Rawls' imaginary original position. The enfranchisement of women and African Americans, and the autonomy of Native American nations, certainly went against the standing notion of the good of many citizens of the time. So why such a status should not be enforced, even if it does interfere with certain notions of the good held by some citizens? And, more importantly, if this right is denied not simply in theory, but in the everyday political life of our fellow citizens—who then have their own notions of the good denied—how can good liberals deny the importance of attending to participation, and the recognition that must accompany it?

### Capabilities

There is, importantly, another school of thought that has attempted to expand a conception of justice beyond its sole focus on distribution. Amartya Sen and Martha Nussbaum (Sen 1985, 1999a, 1999b, Nussbaum and Sen 1992; Nussbaum 2000, 2006a) have developed an approach that, while grounded in an understanding of the centrality of distribution as an element of justice, also moves us beyond the limitations of standard distributional theory. The central argument of their 'capability' approach

is that we should judge just arrangements not only in simple distributive terms, but also more particularly in how those distributions affect our well-being and how we 'function'. Capabilities are about a person's opportunities to do and to be what they choose in the context of a given society; the focus is on individual agency, functioning, and well-being and, rather than more traditional distributive indicators (Pressman and Summerfield 2002). The point for Sen is to move away from a sole concern with the amount of goods we get, and to examine what those goods do for us; he opens *Development as Freedom* by comparing classic Sanskrit and Greek texts, including Aristotle's point that 'wealth is evidently not the good we are seeking; for it is merely useful and for the sake of something else' (Aristotle 1980: 7). The approach examines our specific capabilities, those things that allow or assist us to translate basic goods into the functioning of human life.

Sen primarily uses the concept of capabilities to compare quality of life in different places, especially in developing nations; he sees this attention as a much better indicator of such quality than a simple growth or a wealth-centered GNP rating. 'The central feature of well-being is the ability to achieve valuable functionings. The need for identification and valuation of the important functionings cannot be avoided by looking at something else, such as happiness, desire fulfillment, opulence, or command over primary good (Sen 1985: 200). *Functionings* refer to various doings and beings: these could be activities (like eating or reading or seeing), or states of existence or being (being well nourished, being free from disease) (p. 197). This approach 'concentrates on the *opportunity* to be able to have combinations of functionings... and the person is free to make use of this opportunity or not. A capability reflects the alternative combinations of functionings from which the person can choose one combination' (Sen 2005: 154). The capabilities approach, Nussbaum (2004: 306) argues, is based in wanting to 'see each thing flourish as the sort of thing it is'. So the central measure of justice is not just how much we have, but whether we have what is necessary to enable a more fully functioning life, as we choose to live it.

While such functioning is central, both Sen and Nussbaum are more directly interested in the *capability* of functioning—on the *qualities* that enable individuals to have a fully functioning life. In other words, the approach includes both the qualities and capabilities held by people *and* their ability to express and exercise those capabilities in a functioning life. Broadly put, the focus of this notion of justice is on what it is that either enables or interrupts a living system in its ability to transform primary

goods (if they are available) into functionings. For example, if reading is a functioning, then literacy and being educated are the capabilities necessary for that functioning. Distribution of, and access to, those capabilities may be distributed by a state, but the focus of the theory is also on the functioning of citizens; so this understanding of justice is not about the distribution of material goods alone. Sen remains rather broad and vague on the specific capabilities that individual agents should have to enable their own functioning, noting five basic concepts and freedoms that help advance the general capability of people: political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security (1999b: 10). Here, he notes that since 'political and civil freedoms are constitutive elements of human freedom, their denial is a handicap in itself' (pp. 16–17). Sen's theory of justice, then, focuses as much on those capabilities, and the functionings they allow, as on the basic distributional structure of a government.

Nussbaum, in much more detail, defends a basic 'capability set' necessary for this functioning and flourishing (2000: 78–80; 2006a: 76–8). Specifically, the full list includes:

- Life: being able to live to the end of a human life of normal length.
- Bodily health: including health, nourishment, and shelter.
- Bodily integrity: being able to move freely, having sovereign body boundaries, security against assault, opportunity for sexual satisfaction, and reproductive choice.
- Senses imagination and thought: basically being able to use human intelligence and creativity; this includes adequate education, freedom of expression, and freedom of religious exercise.
- Emotions: 'in general, to love, to grieve, to experience longing, gratitude, and justified anger'.
- Practical reason: the basic liberal right to determine one's own notion of the good life.
- Affiliation: two parts here. It starts with recognition, or 'being able to live with and toward others, to recognize and show concern for other human beings' and 'to be able to imagine the situation of another and to have compassion for that situation...'. Also includes 'having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others.' Nussbaum explicitly notes that this requires protecting institutions that constitute and nourish such forms of affiliation.



- Other species: being able to 'live with concern for and in relation to animals, plants, and the world of nature'.
- Play: 'being able to laugh, to play, to enjoy recreational activities'.
- Control over one's environment: both political, which includes the right of political participation, and material, which includes the real opportunity to own and control property on an equal basis with others.

Importantly, notes Nussbaum, these are separate components, so that having a lot of one capability does not negate the need to attain all of the others. Many of them are what Rawls calls 'natural goods', which are determined, in a substantial amount, by the luck of the genetic and social draw. Governments, however, are to 'deliver the *social* basis of these capabilities' (Nussbaum 2000: 81).

Returning to the question of participation, both Sen and Nussbaum see citizen participation as integral to an understanding of justice. For Sen, participation is part of an understanding of human beings as agents, and not simply recipients of goods. His conception of justice includes participation as both a freedom and function in itself and as something that supports a range of other functions. Likewise, for Nussbaum, participation— or control over one's political environment, as she calls it—is a key capability that supports the overall functioning of the individual, yet it is also a function in its own right. As a capability, a function, or a combination of both, participation is central to a capabilities approach to a definition of justice.

The capabilities approach, in particular the development of specific lists of capabilities such as Nussbaum's, has been charged with being paternalistic and perfectionist. Deneulin (2002), for example, argues that such a list points out what is objectively good, universally and from the point of view of the theorist. The theory is then accused of focusing not on the functionings that people 'choose', but rather on those that people have a good reason to do or be. Both Sen and Nussbaum are quite aware of such charges, and have responded vigorously to them. Sen, for his part, refuses to develop and publish a list of the type that Nussbaum generated, even though in his own various evaluations of development programs such lists are, temporarily, necessary. Sen (2005: 157) notes that he is reluctant to develop such lists for two reasons. First, there is the difficulty 'in seeing how the exact lists and weights would be chosen without appropriate specification of the context of their use'; and second is the fact that a

top-down paternalistic approach would diminish the public reasoning and deliberation necessary for generating an appropriate list.

The problem is not with listing important capabilities, but with insisting on one pre-determined canonical list of capabilities, chosen by theorists without any general social discussion or public reasoning. To have such a fixed list, emanating entirely from pure theory, is to deny the possibility of fruitful public participation on what should be included and why. (Sen 2005: 158)

Nussbaum, given both her explicit list and her insistence that she is developing universal principles in the tradition of Rawls's overlapping consensus (Nussbaum 2002: 76), is much more susceptible to the paternalism charge, but I think Nussbaum's claims are weaker than she insists. Rawls meant for his principles of justice to be universal for all peoples at all times, and developed them in isolation. Nussbaum notes the importance of the influence of 'years of cross-cultural discussion' and dialogue with activists and women's movements; she is accepting of such a list changing over the years. This dedication to movements and to contexts makes her list less paternalistic than some might like to argue. Furthermore, the use of capabilities lists does not necessarily tie one to the universalism that Nussbaum claims; Sen is much more realistic and open to the fact of the impact of contextualism and pluralism on any list of capabilities. The more public discourse is brought in to identify and define capabilities, the more paternalism can be avoided. Inclusively developed lists are not paternalistic, and lists that are understood at temporary are neither universalist nor perfectionist.

The larger point is how capabilities are understood in a larger discourse of justice. Both Nussbaum and Sen base ethical significance in the unfolding and flourishing of basic capabilities, however they are defined, and find harm—injustice, in fact—in the limiting of them. In an important sense, Sen and Nussbaum expand the distributional realm as they focus not just on the distribution of goods we need to flourish, but the processes we depend on for that flourishing to occur. Injustice comes not with a particular good denied, but with the capability that is limited. Their focus is on a threshold level for each of the capabilities on their respective lists, or identified by local populations, under which basic functioning would not be possible.

Importantly, what Sen and Nussbaum's capability approach to justice illustrates is not a singular, distribution-based, understanding of justice, but a linked approach: in the capabilities argument, concepts and practices such as recognition and participation are thoroughly tied

to distributional concerns. The focus is not simply on a conception of distribution, or of recognition, for example, but more holistically on the importance of individuals functioning within a base of a minimal distribution of goods, social and political recognition, political participation, and other capabilities. Nussbaum's capability set explicitly includes crucial notions such as bodily health and integrity, and having the social bases of respect and non-humiliation: such language ties capabilities clearly into discussions of recognition. Nussbaum declares recognition itself a necessary capability on her explicit list, and so creates a structure in which recognition is considered on par with distribution and others in a larger conception of an environment of human justice. In this, the approach makes a key link between the distributional and the cultural and institutional components of justice theory.

As Olson (2001: 7) claims, the capability approach 'simultaneously addresses interconnected problems of economic inequality *and* cultural disrespect'. Likewise, Robeyns (2003) argues that capability theory can accommodate both issues of redistribution and recognition, and yet is broader than even Fraser's bivalent or trivalent approach. In other words, the capabilities approach can be seen as fully incorporating recognition and distribution in a broad theory of justice, yet goes further than either. In addition to distribution and recognition, Sen and Nussbaum's inclusion of participatory rights and freedoms as additional capabilities necessary to transform goods into a good life illustrates the necessity of linking these various conceptions in a larger framework. In a sense, Sen and Nussbaum's approach expands the distributional realm as it focuses not just on the distribution of goods we need to flourish, but the processes we depend on for that flourishing to occur. So rather than examine recognition, distribution, and process as three different conceptions of justice, they understand all of these as necessary components of a more broad set of factors necessary for our lives to function. Whether we can function fully is the key test of justice. Justice then is not simply about distribution, but also about all that it takes—recognition, participation, and more—to be able to fully live the lives we design.

### Justice and Groups

The vast majority of justice theory and all strictly liberal and Rawlsian approaches are focused specifically on doing justice to *individuals*. Do individuals get what is fair and what they rightly deserve? Are political

systems designed and set up to provide for such a fair and equitable treatment of the individuals within them? There is very little discussion of *groups* in the literature. Even recognition theorists such as Fraser and capabilities theorists such as Sen and Nussbaum—who understand the reality of group-based injustice and the need for group-based recognition and/or capabilities—remain in an individualist framework, focusing on the impact of such issues on individuals and the justice they receive. Kymlicka (1989, 1995, 2001) is perhaps the theorist most well-known for taking on group rights explicitly as an element of justice, but even his calls and explanations stay within a liberal individualist framework.

As much as we understand justice as an individual experience, the fact is that many injustices are done to groups. The most obvious include slavery and the subjugation of indigenous populations, but numerous theorists and social movements address various forms of racial, cultural, religious, sexual preference, and gender-based forms of discrimination and persecution. In their discussions, both Fraser and Young focus on gender discrimination as central to the issue of recognition. Likewise, Kymlicka's work on group rights centers on social groups in Canada such as First Nations and the Quebecois. Of the three, Kymlicka more directly takes on the issue of group rights in his theory.

For Kymlicka, membership in a cultural group or community should be seen as a primary good in a system of justice. The basis of self-respect comes from membership in a group, and one's ideas regarding the goal of a good life comes, in large part, from one's own cultural background. Kymlicka remains tied primarily to an individualist conception of justice, but one that depends much on what we get from groups. Some critics of Kymlicka note that his focus is still on individual flourishing, even if that flourishing happens in the context of groups; group rights are protected for the sake of individualist liberal notions of justice. Others (e.g. Brighouse 2004: 109) note that even the perceived group injustices are actually individual injustices—prohibiting someone to express opinions and participate in political decisions in their own tongue, for example—actually violate individual freedom of expression and due process, and can be addressed as such. But Kymlicka is quite clear that in cases where minority groups are in danger of being consistently outvoted (or outbid in markets), then special attention should be paid specifically to group rights. Kymlicka (2001: 39ff.) describes this as a 'liberal culturalism', where in addition to standard liberal rights, states 'must also adopt various group-specific rights or policies which are intended to recognize

and accommodate the distinctive identities and needs of ethnocultural groups' (p. 42).

This focus on group rights as an element of justice has also been taken up by multicultural pluralists looking for a liberal justification for group difference and self-rule. Both Galston (2002) and Tully (1995) note the relationship between demands for recognition and demands for forms of group autonomy. Tully (p. 6) argues that multicultural demands for recognition 'share a traditional political motif: the injustice of an alien form of rule and the aspiration to self rule in accord with one's own customs and ways'. Similarly, for Raz, multiculturalism 'emphasizes the role of cultures as a precondition for, and a factor which give shape and content to, individual freedom' (Raz 1994: 163). Such struggles are struggles for liberty, autonomy, and self-rule—certainly enduring characteristics of liberal justice, yet at the level of the group.

While these approaches remain influenced by traditional liberal notions of justice, and Kymlicka in particular works within a Rawlsian paradigm, the capabilities approach offers another avenue for addressing a group-focused notion of justice. While the capabilities listed by Sen and by Nussbaum are almost exclusively proposed and examined solely at the individual level, it is clear that many capabilities are either assisted by association with groups or are only satisfied within groups. Stewart (2005: 185), unique among capability theorists, takes this tack, arguing that 'one should analyze and categorize group capabilities as well as individual capabilities'. She posits that groups are important to capabilities in three ways: because groups 'affect people's sense of well-being', they are 'important instrumentally in determining efficacy and resource shares', and because 'groups influence values and choices, and hence the extent to which individuals choose to pursue valuable capabilities for themselves and for others' (p. 190). Group membership can bring enhanced self-respect and empowerment to individuals; some bring social goods and needs, others are used for economic purposes. Given those qualities, Stewart maintains that groups can either lead to improvement in some capability categories or, in some cases, undermine individual capabilities.

In addition, though Stewart does not discuss them specifically, Nussbaum's capabilities of affiliation and control over one's (political) environment can only happen within the life of groups—while we may individually affiliate and participate, such activity only occurs in a constructed group context. The point here is quite crucial: that while groups are necessary for the improvement of individual capabilities, they are also to be considered in their own category, as group capabilities are so

integral to the development of capabilities in any community. As Stewart concludes,

They are essentially collective entities, involving collective action and interaction among individuals. The capabilities and functionings of these collectives, which are group capabilities and group functionings, like those of individuals, are those things they may be or do. Because of the interactive element, the group capabilities of collective entities are not simply the sum of the individual capabilities of members of the group. (p. 200)

So the ongoing capabilities of groups themselves are essential. They provide the necessary environment within which individual capabilities can thrive—without strong groups, community, empowerment, relationships, affiliation, and participation would be diminished. I do not believe it unimportant that Sen insists on *public* reasoning in the definition of capabilities for any particular time and place, or that Nussbaum feels the need to justify her capabilities list by noting the importance of local movements and communities in its construction. In both, communities are naming their own capabilities—things necessary to guarantee the full functioning of the community itself. It is not simply that groups provide individual capabilities; rather, group capabilities and group functioning are absolutely necessary to this conception of justice. It is fully reasonable to extend a theory of justice, of capabilities and functioning, to groups themselves, in addition to individuals.

The point here is that there is room, once we begin to move beyond strict interpretations of distributive theory, to consider the role of groups in conceptualizing justice. Either within a more traditional liberal paradigm, as Kymlicka and other multiculturalists argue, within the conceptions of recognition and participation, or within the growing capabilities framework, groups can be seen as both the environment within which individual justice is experienced and as a realm of justice in its own right. As Stewart concludes (2005: 201), there are some specific implications for policy with this realization. Policy needs to address group inequalities, to address tolerance for difference to coexist and thrive, to support group recognition and empowerment, and to support numerous collective activities that promote both group and individual capabilities.

### Social Movements and the Real World of Justice Theory

The previous discussion brings us to a central reason why theories of justice must expand to encompass groups: because groups and communities

are demanding justice for groups and communities—not only for individuals. These moves in the theoretical realm toward understanding justice as more than simply distributive, and toward becoming more accepting of recognition, participation, and capabilities more generally at both the individual and group level, are a good thing for justice theory, if it wants to consider itself aligned with the real world. Demands for justice of these types are common in the language and discourse of many recent social and political movements. Movement demands, in fact, have had an important impact on much recent justice theory. Importantly, the development of concerns beyond distribution in justice theory has been heavily influenced by the discourse and practice of social movements in the past few decades.

In his recent overview of justice, Brighouse (2004) begins his discussion of Fraser with a frank admission: 'Fraser's starting point, unlike that of all the theorists we have discussed up till now, is the real world. She identifies injustices in the real world, and tries to elaborate a theory which explains what is wrong with those injustices...' (p. 155). Theories of recognition, including both Fraser and Young, specifically address various injustices. Fraser began her foray into the redistribution/recognition debate with the observation that struggles for recognition have become the paradigmatic form of political struggle. Likewise, Young began her *Justice and the Politics of Difference* by asking what the implications of various movements—feminist, black liberation, American Indian, gay and lesbian—could be for political theories of justice. And both Sen and Nussbaum have explicitly expressed an interest in a theory of justice that is more applicable to real struggles for justice in the developing world.

In the move to describe injustices based on a lack of recognition of identity and difference, exclusion from political participation, and decimation of individual and community capabilities, much of contemporary justice theory shifts the focus away from the more traditional territory of distributive justice, toward a focus on the postmaterial demands of new social movements around identity and community generally, and race, gender, sexuality, and sustainability more specifically. Calls for the recognition of group difference and political participation have, at times, eclipsed claims for social and economic equity, yet the different demands more often exist simultaneously in the same movement. A number of social movements have focused on responding to various forms of misrecognition, exclusion, and decimation of capabilities. From the US civil rights activists in the 1960s who marched with signs declaring 'I Am a Man', to native American activists seeking protection for sacred cultural sites, recognition,

participation, and community functioning have all been underlying and central demands of justice. The argument here is that there is a relationship between the everyday experience of disrespect, disempowerment, economic debilitation, and the decimation of individual and community capabilities and the emergence of social movements such as civil rights, indigenous rights, gay and lesbian rights, feminism, postcolonialism, and the more general movements for multicultural acceptance.

Importantly, however, these movements do not limit themselves to understanding injustice as faced only by individuals; justice for communities, as well, is often at the forefront of their interests and protests. How might we explain this postliberal focus on community justice? As Connolly (1993) argues, a form of resentment grows with misrecognition, disrespect, and disempowerment. This resentment is not just individual and existential, but becomes civil resentment as well. Social movements arise as responses to disrespect and misrecognition move from the individual and personal to the collective community. Honneth (1995: 164) sees these movements as a 'collective struggle for recognition'. The civil rights activists noted above marched together for both individual and collective community rights. And certainly, the call there went beyond justice as distribution, into the realm of justice at both the individual and community level. While political theorists, especially those within liberal theories of justice, focus on the individual, movement use of the term 'justice' is much broader. It may seem improper, to some theorists, that the theoretical focus has shifted away from the more traditional territory of individual distributive justice toward the more broad and often postmaterial and community-based demands of these social movements. But this shift is, in many ways, not only due to the limits of the theoretical focus on the distributional paradigm, but also simply in response to the empirical reality of the demands of these movements.

### The Upshot

Theorists have defined justice in numerous ways: in my eyes, the most interesting and relevant definitions have come when theorists pay attention to what movements that articulate justice as a goal have to say. Again, I am not claiming that distributive notions of justice are passé or irrelevant—simply that they are incomplete. Inequitable distribution, a lack of recognition, limited participation, and a critical lack of capabilities, at both the individual and group level, all work to produce injustice.

Therefore, claims for justice can, and must, be integrated into a thorough, comprehensive, and pluralist political understanding of the term. My argument in the following chapters is that the environmental justice movement represents and exemplifies just such a project. The point of the chapters is to explore how communities are currently articulating their conception of justice when they use the phrase 'environmental justice' in their discourse and organizing. After that, I turn to how these additional dimensions come into play in calls for not only environmental justice in human communities, but also ecological justice with and for nonhuman nature as well.

## Notes

1. The literature on distributive justice theory is simply too numerous to list here. Classics, of course, include Rawls (1971 and revised 1999, 2001), Barry (1995), Miller (1999), and Walzer (1983). Brighouse (2004) offers an excellent introduction and overview.
2. See, e.g. Dumm (1994). Taylor is also critical of attempts to deconstruct identity, which often come together with calls for recognition. This is often the case with subjugated and stereotyped identities, such as gays and lesbians or Native Americans.
3. This tripartite distinction among forms of recognition Honneth reads out of Hegel and Mead. The reference to Hegel is interesting, as it demonstrates a concern with the importance of recognition in a much earlier era. For Hegel (1967), the state is a community of individualized subjectivities, bound together while being recognized as individual subjectivities. The dialectical overcoming of individuality comes with recognition from the state.
4. Honneth understands the plurality of meanings of recognition in its various uses. He notes that in feminist ethics it is characterized by 'the kind of loving attention and caring exemplified in the mother-child relationship', in an ethics of discourse it refers to a reciprocal respect for the equal status of others, and in communitarianism it refers to the way we come to respect other ways of life (2001: 45). Yet even in this understanding of plurality, Honneth remains tied to the psychological dimension.
5. Miller, however, also notes that recognition is an integral part of procedural justice. I return to this issue shortly.
6. Unlike Fraser, however, Honneth sees such an integrated notion of justice in past social movements as well (1995: 166-7). He reads a concern for recognition, along with material concerns, in the histories of class activism in England by both E.P. Thompson and Barrington Moore. These studies, Honneth argues, offer empirical support for the theses that 'social confrontations follow the

- pattern of a struggle for recognition' in addition to, or alongside of, struggles for distributional equity (p. 168).
7. None of this, argues Young, crosses the liberal no-fly zone into particular pictures of the 'good'. 'The liberal commitment to individual freedom, and the consequent plurality of definitions of the good, must be preserved in any reenlarged conception of justice' (1990: 36). Social justice for Young refers to institutional conditions and the social norms that lead to exclusion from the community of justice. Theories of justice may strive to take place behind a veil of ignorance or impartiality, but actual injustices do not—hence the need to address the cultural and institutional aspects of justice in dealing with real policy issues.
8. See, e.g. Dryzek (2000).
9. There are, however, some significant differences between Fraser and Young, especially given Young's desire to downplay distribution and Fraser's concern that inequitable distribution is at the heart of much of the oppression Young addresses. See Fraser's discussion of Young in chapter 8 of Fraser (1997).

## 5

### Justice to Nature 1: Distributive Approaches

#### Doing Justice to Nature

As I discussed at the outset, one of the tasks of this book is to explore how the broad discourse of justice generated and used by environmental justice movements can also be applied to doing justice to nature itself. The point of such an effort is, on the one hand, a pragmatic and strategic one: the goal is to offer a discourse of justice that is attractive to movements interested in both environmental and ecological justice. But there is also a straightforward academic task here as well. Both academics and activists are developing and using varied conceptions of justice, while focusing on two very different sets of issues. The question is whether it makes sense to use those same conceptions in both the human realm and as applied to nonhuman nature. I believe that it is, and argue that such a set of conceptions, then, can be brought together in a wide-ranging discourse of environmental and ecological justice, applicable to human and nonhuman alike.

As with many of the discussions in the environmental justice literature, the vast majority of academic forays into defining ecological justice remains tied to a distributional approach, paradigm, and discourse. I want to spend this chapter examining the variety of ways that distributional conceptions of justice can be used to outline a theory and practice of ecological justice.

Many have tried to use the language of liberal distributional justice in looking at justice to nature. Without doubt, and to the credit of environmental political theorists, the discussions of environmental and ecological justice within the equity framework are vast, rich, and complex. I am very appreciative of the work of people like Baxter (2000a, 2005),

Bell (2002), Dobson (1998), Low and Gleeson (1998), de-Shalit (1995), and Wissenburg (1998), for example. Still, as thorough as these works are, I find them incomplete, especially as the distributive conception of justice itself has come under intense critical inquiry by political theorists. My overall task is to expand the current discourse about environmental and ecological justice using a theory of justice that includes recognition, participation, and capabilities as integral, and explicit, components; I get to those conceptions in Chapter 6. Such an expanded discourse, I argue, can be used in defining both justice between humans on environmental issues and justice between the human and nonhuman world; it can also help build discursive links between the two demands. But before getting to either of these discussions, I address a range of theoretical obstacles that need to be breeched before we can begin to apply *any* conception of justice to the nonhuman world.

### Obstacles

When discussing environmental justice movements in the USA or elsewhere, there is a demand for recognition and political participation as a way of attaining distributive equity, the main objection one encounters is the argument that all justice is distributive, and movements are mistaken to address recognition, participation, or capabilities as a primary focus of justice. I hope I have addressed this objection in the previous chapters. But in extending the discourse of justice into the realm of nature, one first runs into the question of whether justice as a concept can apply to nature at all, as either the subject of justice or simply its recipient. The second, inevitable, objection is that to address justice to nature is to cross the forbidden line in liberalism between an overlapping consensus on political procedures and a value-based notion of the good life.

There are numerous, constant objections to nature as *subject* of justice within liberal theory. For many theorists, nonhuman nature is simply beyond the bounds of relationships that can be based on justice. For Rawls (1971: 512), our relations with animals, plants, and the environment are outside a relation of justice, as we cannot 'extend the contract doctrine so as to include them in a natural way'. In his expansive theory, our interaction with nature is simply not acknowledged as a question of justice. Likewise, Brian Barry's extension of Rawls's theory of justice excludes a place for nature. Rather than focus on the ability to enter a contract, however, Barry has articulated the problem a little differently, arguing that

'justice and injustice can be predicated only of relations among creatures who are regarded as moral equals in the sense that they weigh equally in the moral scales' (1999: 95). Given this, he argues, the concept of justice cannot be 'deployed intelligibly' outside human relations (Barry 1999: 95).

It is not that these theorists are disinterested in the way humans treat nature. Both Rawls and Barry argue that it is wrong to be cruel to nature, and the capacity of animals for feelings of pain and pleasure means we should have some compassion for them—but not justice. Rawls (1971: 512) believes that we have 'duties of compassion and humanity' in the case of animals. Barry (1999: 114) argues that it is 'inappropriate—cosmically unfitting, in some sense—to regard nature as nothing more than something to be exploited for the benefit of human beings'. But because it is *wrong* does not mean it is *unjust*, he argues. So in the view of two major figures in liberal distributive theories of justice, while we can certainly do wrong to nature, there is simply no victim of injustice in relations between human beings and the natural world.<sup>1</sup>

In other words, liberal justice theorists have come up with a number of objections to extending the range of justice to the nonhuman realm. Baxter (2005: 77) has examined various 'objections of principle' for not extending distributive justice to the nonhuman world, and argues that the three key reasons rely on the basic claim, made by Rawls, Barry, and others, that there are simply no moral agents outside the human realm. As Baxter classifies them, the first category of objection is that justice is a relationship among a group of beings that cooperate voluntarily, the second is that justice involves an assignment of property rights, and the third is that justice requires reciprocity. In all of these, nature is on the outside, lacking ability for voluntary cooperation, unfit as an owner of property rights, and incapable of offering justice in return for receiving it. While these objections seem rather straightforward, Dobson (1998) has also examined the variety of reasons for the traditional liberal exclusion of nature from theories of justice in some depth, and poses some interesting questions regarding the rather flimsy justifications of this exclusion on the part of some theorists. Dobson argues (p. 168), for example, that in Walzer's theory of justice (1983), the exclusion seems to come down solely to the human capacity to 'hope'.

But it is not just the traditional liberals who exclude nature from the sphere of justice; many of my colleagues—theorists of environmental and ecological justice—do the same. These theorists often draw a line between nature as a *subject* of a theory and practice of justice and nature as a

*recipient* of various schemes of justice. As with more traditional liberal theorists, it is the former that many environmental theorists are uncomfortable with. Wissenburg, for example, argues that in order to adapt distributive justice to the environmental agenda, we would need to include parts of nature and future generations as subjects of justice; he simply does not believe such an inclusion would work. He critiques but eventually gives up to Rawls's contract argument: '[A]s long as humans can argue for the existence of relevant differences between themselves and animals, the status of animals as subjects [of justice] cannot a priori be taken as part of our considered judgments' (Wissenburg 2001: 196). Likewise, Talshir (2001: 38–9) argues that nature is by definition a 'nonsocial' agent, and so 'injustice' can only be used in a metaphorical sense in environmental cases.

Bringing nonhuman nature into the realm of subjects of justice, then, is one major challenge—but this is not the only objection. By this time, good classic liberals are probably steaming about one of the major standard criticisms of bringing environment into the discussion of justice: that anything having to do with environmental issues crosses into the liberal no-fly zone of impartiality and neutrality. In this view, the basic idea of the 'preservation' of nature is a good, and as a litmus test of an impartial definition of justice is illiberal. 'Ecological Justice', then, is a taboo oxymoron within the context of universal and impartial notions and procedures for justice. The central problem between liberalism and environmental advocacy of any type is quite clear: neutrality on notions of the good life supposedly precludes a state focus on sustainability. For example, the biocentric argument that we should consider non-human nature, or at least animals and species, as moral equals in political decision-making is often used as an example of a notion of the good. Biocentrism is an approach that is based on recognition and respect for an intrinsically valuable nature, but such an idea, argue liberal critics, is a *preference* not shared by others. The inclusion of nonhuman nature in considerations of justice may simply not be acceptable to many members of the liberal state; if so, then, it remains a question of the conflict between different notions of the good. Justice theorists focused on impartiality, such as Rawls or Barry, would keep the conceptualization of *justice* out of such conflicts about the *good*.

Any version of environmental or ecological justice, in this classic liberal view, must be a generally agreed on good. In other words, liberal ecocentrics might try to persuade their fellow citizens to adopt their principles, and may express or vote their ecocentric beliefs in the various battles on preferences and notions of the good that occur through the democratic

process. Ecological justice, then, would simply be a good agreed on by the majority. As I discuss below, Rawls understood environmental issues in this way, and Miller (1999b) agrees. Yet, as de-Shalit notes, for this approach to work, believers would also have to get everyone (or at least a majority) to believe that notion, and that is often simply too difficult a task (de-Shalit 1995: 7).<sup>2</sup> Dobson (1998) thought this conflict between a desire for environmental ends and the insistence of liberal impartiality was a serious enough problem to argue that this may be where liberalism and environmentalism part company. If a minority believes in justice, and that justice is denied by the majority, a crisis in the liberal polity may ensue—as it has over a number of objections from various human populations about their exclusion from liberal justice.

Dryzek (1987), however, argues that the paradox in this insistence of calling environmental ends 'goods' in liberalism is that unless the members of the state accept a common ecological purpose, then all other human purposes and notions of the good are endangered. In this case, then, we should not sacrifice the flourishing of many for the sake of the perception of the good life of some whose conceptions would undermine the ecological order. There is a key difference between reducing available notions of the good life in order to protect the possibility of justice for all, and insisting on particular notions of the good that would deny that justice extended to nature may do the former, but certainly not the latter.<sup>3</sup> In this view, sustainability, at least, is a prerequisite for liberal democracy. The underlying conditions under which a number of different conceptions of the good life can flourish is a state of ecological justice. The impartiality of liberalism can only really thrive within the *context* of that protection and flourishing of the greater community of justice. I return to this point below.

But I think the best response to the objection that environmental foci, as goods, are not impartial is the argument that liberalism itself, in both theory and practice, is not neutral. Young, for example, argues that impartiality is an idealist fiction; it is impossible to adopt an unsituated point of view, and if a point of view is situated, then it cannot be universal (1990: 104). The purist impartiality argument is also attacked by numerous folks in the environmental community. Atfield (2001) notes that liberal democracy in practice is not neutral on a host of issues, not just environmental. Eckersley (1996: 214) says liberalism is 'systematically biased against the interests of "non-citizens"', that is future generations and nonhuman nature. And obviously, the economic system tied to political liberalism, market liberalism, is not neutral, especially on environmental



issues (Bell 2002). Liberal states are rarely impartial; instead, they advocate particular notions of the good all the time. Spreading 'democracy' abroad, insisting on denying the institution of marriage to gay couples, favoring the market over social welfare, denying equal pay for women, etc. are policies, based on particular notions of the good, pushed by supposedly impartial liberal states. Given this consistent hypocrisy, a focus on ecological justice is no more illiberal than other state policies.<sup>4</sup>

But it is not just states that violate impartiality; partiality is evident even in supposedly impartial liberal theories of justice. As noted above, classic liberal justice theorists such as Rawls or Barry would not include nature as a subject of, or partner in, justice. But note the lack of impartiality here: some cultures and cosmologies assume sentience, a soul, and consciousness to nature—both individual critters and the larger landscapes. Any theory of justice that excludes parts of the world from consideration that some cultures would include begins under a very partial cultural bias; and assuming one cultural bias over the other is not how one should ground an impartial theory of justice. In essence, much liberal justice, including the specific question of how nature fits in such a conception of justice, is inherently partial. So neutrality in both the applied and the theoretical sense is a fiction. This problem, however, may be resolved through the application of an element of recognition, which I return to in Chapter 6. For now, we will assume we must address the impartiality question as we examine the application of distributive models to nature and ecological justice.

### Expanding the Traditional Approach

These obstacles to the consideration of nature in a scheme of liberal justice are challenged by a number of recent authors. As Rawls is the major figure in justice theory over the past three decades, it is not surprising that many environmental theorists have taken his ideas on directly, looking for ways to insert a conception of ecological justice in his liberal distributional theory. Various theorists have used different parts of Rawls's theory—primarily the potential of overlapping consensus, but also extensions of the restraint principle and the veil of ignorance—to attempt to justify a notion of ecological justice that remains within Rawls's larger framework.

Again, for Rawls justice is only possible between moral equals who can enter into contracts. Rawls is pretty clear that humans' relation to nature 'is not a constitutional essential or a basic question of justice'

(Rawls 1993: 246). So any conception of justice to nature is beyond the proper range of justice. Yet ecological concerns can come into the relationship of justice between humans, as Rawls himself acknowledged. In a political sense, liberal citizens may try to use various values to persuade others of their ecological notions of the good, or they may vote their ecological beliefs. Then again, Rawls leaves a door open to a broader conception of ecological justice with a footnoted caveat: 'Of course, these questions may become ones of constitutional essentials and basic justice once our duties and obligations to future generations and other societies are involved' (Rawls 1993: n 35). And they could remain in Rawls' greater framework, as citizens may be able to develop *political* reasons for a broad ecological concern, as opposed to moral or religious ones; such a political conception could be acceptable to all citizens as part of a greater overlapping consensus.

Bell (2002, 2003) reads much into this opportunity, and defends it thoroughly. Ultimately, Bell simply lays out how environmental concerns should not violate objections of neutrality in the eyes of more purists, if mistaken, Rawlsians. He argues that there is nothing in Rawls's political liberalism that rules out ecological justice in a democratic liberal state. A concern for, and inclusion of, nature in a framework of justice would not necessarily be an endorsement of a particular conception of the good. Rather, supporters of such policies could persuade citizens to include these concerns in an overlapping political consensus. This would result in what Bell calls a 'green neutralist liberalism' (Bell 2002: 721) or a 'liberal ecologism' (Bell 2003: 2). This is not substantively different than what Brian Barry (1999) has suggested. Barry's basic conclusion regarding the place of nature and sustainability in liberal justice is noted above—that environmental ends are conceptions of the good, and the best proponents of environmental justice can do is to try to convince enough people that we should consider nature as having some moral weight in our own decision-making. Here, in other words, even if the question of nature is one of the good, not justice, and so is subject to citizen debate, ecological justice can still prevail. For both Bell and Barry, the point is that while liberalism might not embrace justice to nature, it certainly does not *preclude* it. Yet even if environmental justice advocates were able to convince enough of their fellow citizens to establish a green liberalism, Bell notes that it would be 'substantively and procedurally biased toward humans' (Barry 1999; Bell 2003: 2). Still, this is nonetheless a better situation than a liberalism that is incapable of considering ecological justice at all.<sup>5</sup>

Wissenburg offers another approach to greening Rawlsian justice—focusing on the duty we have to restraint. 'Whenever there is a choice between destroying a good, thus depriving others of present or future options to realize legitimate plans, or merely using it without limiting other peoples' options, we have a duty to do the latter' (1998: 124). This restraint principle can be used in various environmental matters, both domestic and international, as a way to bring a notion of sustainability into liberal decision-making. In Fraser's very limited discussion of environmental matters (2001: 36–7), she comes to a similar conclusion. Fraser argues that if one group wants sustainability and the other does not, we cannot write the conflict off as simply two different notions of the good. As she argues, if the anti-environmental parties get their way, they will deny parity to both contemporary others and future generations.

This may, indeed, rule out some pictures of the good by acknowledging the unjust or unsustainable implications. Admittedly, the range of available and acceptable pictures of the good life would certainly be narrowed. Liberals may simply look to a classic theorist such as J.S. Mill for a supportive liberal principle regarding limiting the freedom of some to live a particular notion of the good if it brings harm to others. There are plenty of historical examples of limiting some notions of the good to support the ongoing and overall good of the nation, as when the franchise was expanded to African-Americans, women, and indigenous peoples. A restraint principle could be used to justify an environmental focus on the part of a liberal state, without a violation of the principle of impartiality. Of course, and as Wissenburg notes, this idea is still 'consistent with the psychological transformation of nature into resources' (p. 172), and so, remains solely within a Rawlsian framework of the distribution of goods among humans, without any recognition of nature itself as a subject of justice. In other words, it is more in the realm of environmental rather than ecological justice.

Others (such as van deVeer 1979; Wenz 1988) offer another, more radical, proposal for expanding a Rawlsian approach; one could 'thicken' the veil of ignorance Rawls asks us to imagine as we develop the original set of justice principles. Behind this veil, we should not only be blind to our future position in society, our abilities and talents, and our possible lot in life, but we should also consider that we might not even be human on the other side of the veil. Wissenburg (1993: 17) argues that this idea really does not work in theory, as he argues that we cannot imagine what it means to be irrational; even if we could, we could not use that irrationality to plan the rational set of rules Rawls asks us to. Still, the

idea that we could thicken the veil in this way makes as much sense as the imaginary original position itself does; we could attempt to represent nature in this imaginary space, just as we are to represent the idea of a disembodied and unencumbered person. Such an imaginary practice might be useful in establishing an overlapping consensus or basis for justice; still, the first task would be to come up with a justification for the inclusion of nature as an agent or subject of justice, which Rawls explicitly denied.

David Miller, another of the major figures writing in the liberal tradition, has also explored the environmental implications of justice theory, and offers a different approach (Miller 1999b). Rather than examine ways of justifying ecological ends, or of including nature in an overlapping consensus, Miller examines the possibility of including environmental goods along with other primary goods in calculations of distributive justice. Miller concludes by dividing environmental goods into three categories. There are some environmental goods that can be easily and directly attached to other primary goods. Ill health, caused by pollution, for example, would reduce the value of (not to mention access to) other primary goods. There are other environmental goods about which we can generate, through democratic procedure, enough public agreement that they would not generate issues of distributive justice. And finally, there are a number of environmental goods that are valued differently by different people, and would have to be counted as primary goods only by those who value them as such. In this case, in order to apply some principles of distributive justice, Miller argues that a form of cost-benefit analysis would be a crucial, if difficult, way to measure the desire, the losses, and the willingness of the public to pay for environmental goods.<sup>6</sup> So Miller offers a way to include various environmental goods (necessarily defined as *goods*, amenable to distribution) in a distributional calculus. Again, and as with attempts to stretch Rawls, this approach simply brings environmental goods into a distributional framework; nature, more broadly construed, is something simply not considered in this framework.

These discussions regarding how environment and/or nature fit in traditional conceptions of liberal justice are, however, thoroughly constraining. We have a pre-made set of theories of justice, developed with certain considerations of liberal societies in mind; yet environment and nature are quite difficult to simply add on, as the justifications are difficult to find *within* such theories of justice. Certainly, it is an interesting and crucial debate within the liberal distributional justice community—how

can we bring these new considerations of environmental and ecological justice to bear in theories that did not consider such issues at the outset. And it is heartening there are ways that recent theorists have seen to use and/or expand the framework of traditional liberal justice theory to include environmental concerns in a number of ways. Still, this approach is quite confining, and there may be much more potential in addressing distributional justice in broader ways.

### Broader Approaches to Distribution and Ecological Justice

Beyond simply looking for ways to find openings for environmental and ecological justice in existing theorists' works and frameworks, a number of environmental political theorists have offered additional and innovative approaches. Many authors who focus on the concept of ecological justice—doing justice to nature—move beyond the confining questions addressed above, and examine ways of extending distributive justice so that it can encompass environmental and ecological questions. Three key approaches focus on preserving the context of human justice for future generations, paying attention to specifically ecological indicators in a distributional conception of justice, and expanding the notion of the human community to include its ecological support system. What this literature shows is that there are at least a few routes to a conception and practice of ecological justice within the liberal limitations of justice—one that addresses environmental concerns while continuing to exclude nature as a subject.

#### Future Generations

Attention to future generations is probably the most discussed approach to expanding distributive in a way that brings attention to the natural world.<sup>7</sup> While this tactic does not extend justice to the natural world directly, it does acknowledge our justice responsibilities for future generations of human beings. The discussion of future generations allows an inclusion of the environment of the future without a particular dedication to that environment or to nature itself—just to the humans who will occupy it. Justice, in this sense, requires an intergenerational principle of equal opportunity; various authors argue that we cannot leave less to future generations than we ourselves enjoy, we cannot leave them without enough to construct their own conceptions of the good, and

we cannot leave them with their lives endangered. The approach is specifically distributional, focusing on the distribution of natural and environmental goods to future generations of humans—addressing what we in the present generation consume, and what we leave to our progeny. For many justice theorists, this human and distributional focus enables us to thoroughly broaden the application of justice while remaining firmly grounded in the familiar ground of contemporary liberal justice theory.

Brian Barry has discussed the possible impact of environmental damage on our provision of justice to future generations. We should, he argues, 'provide future generations with the opportunity to live good lives according to their conception of what constitutes a good life' (Barry 1999: 104). Here, in order to do justice to future generations of human beings, we must leave them an environment that does not diminish their choices of the good life. Barry is really not all that concerned about the *specific* types of choices available in the future—even a preference for plastic trees may be a valid choice. A focus on the types of choices takes us away from the key issue, which, to Barry, is simply that for future generations the 'conditions must be such as to sustain a range of possible conceptions of the good life' (p. 105). Barry notes a particular concern with the consumption of nonrenewable resources in this case, as the depletion of nonrenewables could lead to our limiting possible choices in the future. Likewise, Norton (1999: 149) makes an argument that we have an obligation not to diminish the opportunities of future generations; the best way to achieve this is to specify certain aspects or features of the natural world and insist they be protected. Sustainability, then, is a necessary condition of justice to future generations.

An extrapolation of how Rawls might be used to extend environmental justice to future generations is offered by de-Shalit (1995). While Rawls does not allow us to discuss animals or nonhuman nature within a theory of justice, he does acknowledge that we can actually do environmental harm to future generations. In response, Rawls (1973: 293) suggests a savings principle: 'Saving is achieved by accepting as a political judgment those policies designed to improve the standard of life of later generations of the least advantaged.' Here, Rawls extends his difference principle to the least well-off of the future.<sup>8</sup> If we accept that the least advantaged of the future may be least advantaged in environmental goods—access to food, clean water and air, an environment free of toxins and full of resources—this savings principle can bring a form of environmental justice to future generations.

de-Shalit himself offers perhaps the most thorough discussion of *Why Posterity Matters* (1995) in an exploration of justice and environmental affairs, though he takes a different tack. The focus of de-Shalit's environmental dedication to posterity comes with an extension of our conception of community to generations in the future—a communitarian theory of intergenerational justice. Here, 'our obligations to future generations derive from a sense of a community that stretches and extends over generations and into the future' (p. 13). Simply put, we should consider this extended community when making environmental decisions. We should not overburden the future with environmental problems; rather, we should leave them with an ample supply of environmental goods. For those very far in the future, we are still obligated to 'relieve any potential and foreseeable distress' (de-Shalit 1995).

de-Shalit makes an argument, beyond the contractarian one of Rawls and others, that suggests our obligations to generations both now and far in the future, not just our immediate progeny. The 'constitutive community extends over several generations and into the future, and that just as many people think of the past as part of what constitutes their "selves", they do and should regard the *future* as part of their selves' (de-Shalit 1995: 15–16). Our community spreads out over time, not just place; this is the essence of our obligation to the future, and the environment of the future.

One of the strengths of de-Shalit's approach here is that, unlike the various discussions of notions of the good, or of savings or difference principles, this is how many in the real, and pragmatic, political world view our obligations to the future. It is a theory of intergenerational justice that goes beyond the individualistic and atomistic focus of so much justice theory, into an understanding of groups and communities and their condition both now and into the future. Even conservatives, going back to Burke, often discuss our obligations to past and future generations on more or less communitarian grounds; Burke notes the 'partnership between those who are living, those who are dead, and those who are to be born' (Burke [1770] 1999: 96). But this concept of a trans-generational obligation should also appeal to a variety of other ideologies as well.

This concern with future generations, however, also must be used to illuminate the need to provide justice in the present. In this, de-Shalit follows others who argue that we simply cannot think of intergenerational environmental justice without also incorporating environmental

justice among contemporaries. As Atfield (1999: 156) notes, 'to sell future generations short is both wrong and inequitable. So too is a preoccupation with justice between generations at the cost of a neglect of justice between contemporaries.' In essence, he argues, we need to rectify existing injustices as a prerequisite for doing environmental justice to future generations (p. 163). This concern is also expressed by de-Shalit (1995: 11), who refers to the need to balance our obligation to future generations with our obligations to less well-off contemporaries.

Yet as helpful as this model of justice to future generations is, it is still not an extension of the community of justice to nature—it is not ecological justice. The approach does not recognize nature *for itself*, or as a full member of our community, but solely as it supports the *human* systems that are nested within it. Recognizing and valuing that support system is central to the future generations approach; any decline in the quality or standard of the natural world that supports future generations will limit the choices, and notions of the good, of those generations. But while the extension of justice to future generations includes a concern for the future environment of those future generations, the extension of the scope of justice remains centered on human needs and definitions of the good. Others, however, are not as hesitant in actually extending the community of justice beyond humans to nonhuman nature in some way; I will return to these shortly. First, though, I need to address another, recently popularized, way distributive justice can be used to protect the human environment.

### *Distributive Justice and Ecological Space*

Some theorists remain focused on applying innovative models of distributive justice to provide for more environmental justice to those in the present. Pogge (2002), for example, has developed an idea of a 'global resources dividend'. Here, the idea is that the 'global poor' own an inalienable stake in all limited resources; if a state or government sells their own natural resources, a small part of that value is to be shared with the poor. In a sense, Pogge insists on redistribution as a duty of justice rather than as a matter of charity; he expands the conception of justice to the environment on the assertion that all human beings share in the development, sale, and use of natural resources. In many ways, this is simply an implementation of the Rawlsian difference principle, that any benefit to the well off must also benefit the least well off. And this is not really about ecological justice, or doing justice to nature; rather it is about

the costs and benefits of the use of nature being shared in the human community. It may, however, be the case that such a tax or dividend would be a disincentive to take resources out of the natural world, or to be efficient in any such use of resources.

Hayward (2005*a*), however, offers a critique, and a quite creative expansion, of Pogge's proposal, and his response illustrates another opening for a consideration of nature in a theory and practice of global distributive justice. Basically, Hayward argues for a tax based on 'a nation's per capita utilization of ecological space' (2005*a*: 318). The idea here is to determine just how many resources are consumed in production, and how much space is necessary to absorb the waste of such production. Here, Hayward refers to the increasingly popular notions of 'ecological space' and an 'ecological footprint', or the occupation of ecological space; yet he expands the use of the concept in important ways.<sup>9</sup>

Focusing exclusively on the extraction of primary resources, as does Pogge, could hurt the poor more than it helps, suggests Hayward. The burden should not be on simple extraction, but on the overall economic benefit, and ecological cost, of the use of resources. Such a focus has the benefit of including both the extraction of resources and the 'disbenefits' in the form of pollution and other ecological externalities. For Hayward (p. 325), the point is that the concept of ecological space should be conceived of as addressing the 'ongoing initial appropriation of nature by humans'. The normative justification for levying such a tax is based on the degree of excess use of ecological space (p. 330) rather than simply the use of resources. In this way, distributive justice is served by requiring those who occupy more, and disproportionate, ecological space to compensate others who do not.

The discussion of the use of a concept of ecological space in a distributive theory of social justice is one key way we can extend the conception of distributive justice to include the natural world. Here, the use of nature is brought into the everyday calculus of redistributive justice, into a consideration of what is distributed, and what the costs to both humans and the natural world that distribution brings. Staying within the bounds of liberalism, it focuses on what everyone needs to live the type of life they value and desire. Yet beyond fair distribution, the concept also introduces sustainability, or at least the full ecological costs of such life choices; it has an eye toward both social and ecological justice. Incorporating the concept of ecological space into global distributive justice illustrates a commitment to ecological and environmental justice, in addition to social justice.

### *Expanding the Community of Justice to Nature*

Still, such efforts, though they expand our conceptualization of justice to include ecological impacts, do not explicitly address how to include aspects of nature itself as participants in a larger community of justice. As difficult as such an expansion sounds initially, theoretical efforts to do so are not new. For decades, those who have argued for animal rights have broken much ground in this direction, extending the scope of moral applications, including justice, to some nonhuman animals with interests or preferences. This is most often done by expanding either a utilitarian notion of pain and pleasure (Singer 1975), or by applying a Kantian notion of inherent value, so that we expand the list of those that are to be considered ends in themselves (Regan 1983). The most popular author of expanding scope in the environmental literature, at least in the US context, is Leopold (1949) and his conception of a 'land ethic'. Interestingly, the land ethic aims to expand both the moral community and to extend our own conception of ourselves within that community. Simply put, Leopold's ethic is about enlarging the boundary of our own moral community to include the natural world. Leopold's efforts are aimed to get us to understand the role of the natural community in supporting human moral practices, but he insists that we accept this larger system and ecological community as both part of our own being, and also as an end in itself.

More recent authors have moved beyond a concern with including parts of nature in a moral community to a more specific concern with its inclusion in the community of justice. For Low and Gleason (1998), as with Leopold, in order to conceive of extending distributive justice to nature, we either need to expand the scope of the moral community to include some nonhuman animals or the broader environment, or we need to expand the scope of the 'self' of liberalism. At the very least, this extension simply brings nonhuman nature into consideration as the place where human justice occurs. Habermas brings such a concern for the 'lifeworld' into his understanding of social movements such as environmentalism (1981); he sees these movements arguing for protection of the context of the lifeworld, which is necessary for solidarity, and, so, justice. With such a concern comes the need to include the nonhuman world in theories of justice, both as an object and a precondition of justice (Dobson 1998: 187-8).

Given the long genealogy of the 'expand the community of justice to nature' approach, it is not surprising that there is also a long history of

objections. The standard criticism is that such a notion puts nature on an equal moral footing with humans. In reality, however, there is only very rarely an appearance of this language of equality. At most, the conception championed by Leopold, for example, asks for moral *consideration* of nonhuman nature; but such a consideration does not require a previous conclusion of equality. As Sagoff (1993: 86–7) notes, Leopold's bold proclamation of a land ethic was articulated without the need to advocate an egalitarian moral system with nature, or even a demand for equal rights for animals. Taylor's *Respect for Nature* (1986), coming in the early years of environmental ethics, revived the idea that we can invoke a thorough consideration of nature without proclaiming human–nonhuman equality. We can make the claim for the moral consideration of nature as part of our extended community, and the inclusion of that nature in a theory of justice, without insisting that every part of nature has moral worth identical and equal to our own.

Baxter (2005) is perhaps the most thorough and articulate recent exploration of the extension of the community of justice to parts of nonhuman nature. Influenced by Barry's conception of impartiality, Baxter argues that we can extend the idea of the community of justice to at least some of nonhuman nature, while detaching this extended community from any conception of the good (Baxter 2000b: 50). To stay within Barry's conception of justice as impartiality, Baxter argues that an extension of the community of justice is simply a procedural move. Admission to the community of justice is not based on any particular notion of the good, but rather on the characteristics of candidates—in particular whether they have interests (p. 57). If we can detach the notion of the community of justice from the notion of the good, we can remain impartial and within the rest of Barry's conception of justice as impartial proceduralism.

Baxter is not making a claim that members of nonhuman nature are moral agents; and certainly not insisting that animals reach the threshold Barry holds for entry to the community of justice—equality of moral standing. Instead, Baxter argues that nonhuman nature should be considered recipients, rather than agents, of justice; as such, they 'may intelligibly be said to have claims upon the actions of moral agents' (2005: 7). Baxter includes a moral status for 'the "merely living" which rests on the property of being a living organism with, therefore, welfare interests' (p. 65). For some, this extension of the community of justice is an important and paradigm-shifting notion—that some members of the community of justice are recipients only rather than both recipients and agents of justice. Wissenburg (1998), for example, has argued for this extension

of community to recipients as well as agents. But Baxter argues that this shift is not as radical a paradigm shift as it may seem. He examines how Barry incorporates human beings who cannot articulate their own conceptions of the good, such as infants and those with cognitive handicaps. Rawls, and nearly every other liberal justice theorist, makes the same exception for humans who have interests but cannot fully articulate them or be full agents of reciprocal justice. Here, we expand the community of justice to include these examples of individuals with interests, even if they cannot formulate a conception of the good or fully participate as agents in the community of justice. The fact that nonhuman nature cannot defend its own interests or reciprocate moral concern or practice 'will no more justify excluding them from the community of justice than it will justify excluding "inarticulate" humans who are similarly situated' (Baxter 2005: 119).

Baxter makes two central claims in this argument to extend justice to some nonhuman nature, both based on the premise that nonhuman nature has interests. First, 'all non humans, sentient and non-sentient, are members of the community of justice,' and second, 'all members of the community of justice are proper recipients of distributive justice with respect to environmental goods and bads—that is, to ecological justice' (Baxter 2005: 9). He goes on to argue that once we accept that 'the interests and needs of nonhuman nature should be represented in the formulation of the basic structure of impartial justice... then their extermination, including that produced indirectly by habitat destruction, will *prima facie* have to be regarded as unjust' (p. 114).

It is important to note a crucial addition Baxter makes to the ecological justice discourse. Baxter extends the community of justice to what he calls 'merely living' species, or those nonsentient and 'too lacking in individuality for it to make much sense to attribute the rights to individuals of the species' (Baxter 2005: 127). In these species, as no individual member possesses ambitions or interests that differentiate it from other members, there can be no moral differentiation between those individuals. This does not mean that the individuals in this species are totally devoid of moral standing. Baxter suggests we admit not just individuals and species to the community of justice, but 'viable populations' (p. 128) of species as well. Ecological justice, he insists, defends the claim that viable populations of merely living organisms have a right to environmental resources necessary for those populations to exist and survive (p. 131). Again, this is an expansion of the community of justice, not only to sentient animals, but to groups and populations.

Finally, Baxter insists that even if we expand the community of justice, we still do not have any kind of agreement on what is good for members, or how to balance interests. This issue remains in the category of competing notions of the good. We simply expand the community of consideration, and open the procedural outlines of a just, yet still impartial, society to their inclusion. As Baxter (2005: 124) puts it:

What the amended version of justice as impartiality, which admits nonhuman nature to the community of justice, can plausibly aim for is to push moral thinking in a certain direction—one which requires the interests of nonhuman nature to be considered in human policy-making, which underpins constitutional provision for this, and which allows human interests to trump those of nonhuman nature only under certain fairly stringent conditions.

In other words, there is still no guarantee of a beneficial outcome for nature over humans, which would be a violation of impartiality. All we have is a guarantee of *consideration* of nonhuman living nature in human deliberation of distributive justice. Ultimately, what Baxter seeks is a theory that all members of the extended community of justice are justified in making claims against other members; the task is to determine the level of resources various organisms or populations are entitled to claim against one another. The larger point here is that distributive justice can no longer take place under the assumption that impacts to nature do not exist, or do not affect the larger community of justice. Within the distributive paradigm, nature is incorporated as both a recipient of, and, importantly, context for, justice.

In some ways, though, this approach is not as broad in including nonliving nature as, for example, is the ecological space approach. Unlike that approach, Baxter offers no moral accountability for the *nonliving* aspects of the natural world. Baxter limits his extension of the community of justice to living organisms with interests. Even though various nonliving entities—mountains, rivers, and clouds—make contributions to the sum total of environmental benefits, they have no interests, argues Baxter. While such a distinction makes sense in terms of how we understand a recipient of the moral consideration of justice—Baxter is referring to individual nonhuman animals with welfare interests—it unnecessarily limits the extension of justice to nature. Nonhuman, nonliving nature remains the environment in which all other beings exist, sustain themselves, develop interests, and, for humans, develop preferences for the good life. We are still left with the task of finding a way to include a larger consideration of nature in a conception of justice.

### Limitations of Distributive Theories of Ecological Justice

The closest these distributional theorists of justice get to the arguments of environmental justice movements is in the discussion of future generations of humans. But those arguments do not address the issue raised by movements of the recognition of particular ways of life and ways of relating to nature. Rather, the point of the focus on future generations is to find a way of using liberal theories of distributional justice to justify the protection of the natural world. While this is an admirable way of opening a theory in a direction many thought it could not go, it remains squarely in the distributive paradigm—and distant from many of the demands and articulations of movement groups. Furthermore, and unfortunately, most of these attempts at expanding environmental justice, or of establishing ecological justice, ignore the realms of justice theory that have been moving away from a strict distributional focus. In other words, there are other potential conceptions and discourses of justice that may be more useful in establishing justice to nature.

Most advocates and practitioners of green theory and philosophy have not really picked up on either the calls of other theorists or environmental justice movements to extend analyses of justice beyond the distributive realm. Green political theorists have engaged traditional liberal justice theorists on these questions of distributional justice, and many have gone much further than simply applying questions of nature to existing frameworks. Still, given theoretical and movement calls to extend an analysis of justice beyond the distributive realm, theories of environmental and ecological justice have been disappointing to date. For much of the past two decades, most authors in the field have avoided an examination of the interface between justice and the environment, focusing instead on environmental values or ethics. More recently, however, authors such as those discussed above have begun to use the language of distribution to frame sustainability and environmental justice. Yet even these authors, dedicated to expanding the existing discourse of justice to future generations and nature, rarely stray from a distributive approach. Most remain tied to a limited distributive paradigm, and a one-dimensional conception of justice. While we would expect such dedication to distribution from the more traditional liberal theorists who developed their theories around the concept, it is disappointing to see more recent and creative theorists captured by this limited conceptions. As examples, I focus here on Dobson (1998) and Low and Gleeson (1998), in addition to Baxter (2005).

Dobson (1998) offers a groundbreaking attempt to find common ground between social justice and environmental sustainability. This is a thorough and comprehensive study, and it begins with Dobson's clear and explicit agreement with Barry's more 'narrow' conception of justice (1999), that 'all justice is distributive' (Dobson 1998: 17). This bias toward the distributive is made quite continuously clear by Dobson's interchangeable use of 'social justice' and 'distributive justice' throughout his work. Dobson (1998: 235-6) also explicitly argues that issues of respect and affinity, as they have been raised by numerous theorists of justice critical of the distributional focus, are *not* issues of justice, as they go beyond distribution. He remains within the distributional paradigm of justice, and does not address key issues of how identity, recognition, and political process play into environmental justice. All environmental injustice, then, is a matter of the maldistribution of environmental goods and bads. As important a contribution Dobson's work is to the literature on environmental and ecological justice, it is hampered by his insistence on remaining within the realm of distributive justice.

Dobson begins with his agreement with the Brundtland Report in its claim that 'inequality is the planet's main "environmental" problem' (WCED 1987: 6; Dobson 1998: 14). He goes on to offer a comprehensive examination of possible relationships between the varied discourses of distributive justice and environmental sustainability. He takes apart various elements of the distributive model proposed by a wealth of authors in political and social theory, examining the 'community' of justice (distributors and recipients), what is distributed, the principles of distribution (utility, need, desert, entitlement, etc.), and whether the theory is partial or impartial, proceduralist or consequentialist, and particular or universal. The central task of Dobson's book is a comparison of possible relationships between different pictures of distributive justice and various ideas regarding environmental sustainability, with an eye toward discovering some compatibility. Ultimately, Dobson finds very little common ground. He concludes that distributive justice and environmental sustainability are only compatible within particular (and limited) definitions and frameworks of both justice and sustainability.

Dobson's work is much more of an examination than a prescription, as it explores the possible relationships between the varied discourses of distributive justice and environmental sustainability. The comparisons and matchups are thorough and exhaustive, and the myriad relations make for a complex, though illuminating, matrix. These conclusions, though, regarding the limited possible relationships between theories

of social justice and models of environmental sustainability, are limited by the sole focus on justice as distributional. By remaining in the distributive paradigm, Dobson misses important notions of justice, including those examined by theorists of recognition, participation, and capabilities, as well as notions articulated under the broad banner of the environmental justice movement—including academics and activists he cites in his text. This needlessly limits the possible convergences between social justice and environmental sustainability.

One of the key concerns that motivated Dobson to take on this project was that environmentalists and social justice activists lack a common discursive ground, and so often talk past one another. His own response is to more thoroughly lay out the theoretical and discursive realms where the movements can meet. Yet it seems counterproductive to ignore additional theoretical and discursive realms—additional conceptions of justice—where the two might find room to talk. My own suggestion is to expand the discourse of environmental and ecological justice to enable talk that has previously gone 'past' to make sense to all the parties involved.

Like Dobson, Low and Gleeson (1998) take on an environmental analysis of various notions of distributive justice. Again, the result is thorough and admirable, demonstrating once again that the issues that come out of the intersection of discussions of environment and justice are quite challenging, interesting, and full of potential. Low and Gleeson's goals differ a bit from Dobson, as they aim both to develop general principles of ecological justice, and to suggest cosmopolitan and global institutions charged with carrying them out. But I also find their efforts incomplete. Like Dobson, they resist a move beyond the distributive paradigm, and proudly so. 'The distribution of environmental quality is the core of "environmental justice"—with the emphasis on *distribution*' (Low and Gleeson 1998: 133). Low and Gleeson develop two key principles of environmental justice (p. 156), three 'rules of thumb' (pp. 156-7), and two international environmental institutions along the lines of Held's cosmopolitan democracy (p. 191).<sup>10</sup> Again, the focus, and so the conclusions, are limited.

But like Dobson, Low and Gleeson also miss the opportunity to use their own concerns to move beyond a narrow conception of distributive justice. This is especially frustrating given the fact that their two key principles of environmental justice only indirectly affect distribution. Those principles are, first, '[e]very natural entity is entitled to enjoy the fullness of its own form of life,' and second, that 'all life forms are mutually dependent and



dependent on non-life forms' (Low and Gleeson 1998: 156). Rather than address distribution, these principles are really about recognizing and respecting (a) the potential of nature and (b) the dependence of humans on the realization of this potential in nature. While Low and Gleeson proudly declare their adherence to a tradition of distributive justice, their own discussions and these central principles demonstrate the centrality of underlying social and cultural practices and beliefs that lead to the distribution of environmental ills—and the centrality of recognition in addressing those ills.

Low and Gleeson are also quite attentive to, and supportive of the arguments regarding political participation as a means to environmental justice. They certainly see the link between participation, inclusive procedures, empowerment, and good environmental ends. They quote approvingly from some who have addressed the issue of participation and public discourse, speak positively of participatory and discursive procedures to attain environmental justice, and so seemingly understand the claim for a larger venue of justice. Yet these realizations regarding participation are not incorporated into their ideal principles or practices of ecological justice; rather, their proposed global cosmopolitan institutions leave little room for expanded participation, and would seem to diminish, rather than extend, political inclusion on environmental issues at the local level.

Finally, Low and Gleeson acknowledge the contextual and cultural bases of the meanings of both of the terms 'environment' and 'justice' (pp. 46, 48, 67), but cannot bring this notion of cultural difference into their definition of either environmental or ecological justice. Justice is understood as a 'universal moral relationship we share with other humans' but one that 'has to be interpreted through culturally specific institutions which will vary' (p. 67). So they seem to see the importance of acknowledging the variety of cultural contexts from which meaning is derived, and insist that autonomy is a key principle of justice (p. 199). Yet Low and Gleeson are blinded by their fear of 'postmodernism', which they simply equate with relativism. Acceptance of different notions of justice, to them, means accepting that 'your conceptions of justice are true for you, in your cultural context, but mine are true in my context'; this makes justice 'meaningless' (p. 197). There is no middle ground for Low and Gleeson; there is only universalism or relativism. No matter that this supposed dichotomy has been denied from William James (1909) to Richard Bernstein (1988) and, most recently, David Miller (1999a, 2003) specifically on justice. Low and Gleeson, in their focus on justice in

the distributive paradigm, fail to see the possibility of *engagement* across notions of justice—something crucial to notions of justice as recognition and political process. As I argue in Chapter 7, there is still the possibility of *unity* on notions of environmental justice, even if there is not *uniformity* of cultural definitions of the term.

Reading much of this distributive literature on the question of environmental and/or ecological justice is frustrating, however, as authors such as Dobson, Low and Gleeson, and Baxter acknowledge and discuss valid issues of justice that the distributive paradigm simply cannot encompass. As noted above, Low and Gleeson's key principles of ecological justice are all about recognition rather than distribution—though they themselves do not recognize that. Dobson also alludes to many of the issues raised by movements regarding recognition; for example, he approvingly cites the work of Laura Pulido (1996). Pulido has focused on environmental justice struggles in the US southwest, and has argued that environmental movements of the poor focus not only on economic justice, but also on cultural identity and survival as an element of environmental justice. It may be true that the victims of environmental injustice encounter environmental problems through their economic inequality, but that economic inequality is also tied to cultural inequality. Pulido (1996: 29–30) suggests that resolutions to environmental justice will be found not only through economic restructuring or redistribution, but also through the alteration of power relations, cultural practices, and systems of meaning. While attempting to encompass the articulations and discourse of what Pulido calls 'subaltern environmentalism', Dobson's adherence to the distributive paradigm simply cannot cover challenges made by Pulido—and the environmental justice movement—in the realms of power, culture, and social meaning.

Likewise, Baxter's text is focused squarely and insistently in the realm of distributional justice; nowhere are the justice theories of Fraser, Young, Sen, or Nussbaum raised. As with the Dobson and Low and Gleeson works, there are important references to other approaches, but they are not explicitly addressed or incorporated. For example, Baxter argues that we can justify extending justice to nature by 'recognizing their claim to a fair share of the environmental resources which all life-forms need to survive and flourish' (Baxter 2005: 4). I examine these types of claim in depth in Chapter 6; the point here is that while notions of recognition and capabilities are raised in Baxter's text, he does not attempt to bring such concerns and themes into a conception of ecological justice beyond the obviously distributive.

## Beyond the Distributive Approach to Nature

The underlying concerns of many of the theorists I address here simply cannot be contained with a focus on distributional theories of justice. For example, Dobson (1998: 64) notes that the key question of how the community of justice gets determined is not thoroughly discussed in distributive theories of justice. Baxter wants to extend this community, but insists that such a discussion remains within the context of distribution. Rather, my argument is that once we begin to extend the community of justice beyond humans, even when we are exploring loopholes in existing distributional theories, we are stepping beyond distribution into the realms of recognition, procedural justice, and capability theory. Further, if it is necessary, as Young, Fraser, Nussbaum, Sen, and many others argue, to take into consideration institutional, cultural, and symbolic limits to attaining distributive justice, then even if we focus on weaker forms of environmental sustainability we still must examine why we treat both exposed human communities and nature as we do to cause the environmental inequities we have. None of the above approaches does this. The misrecognition of communities, noted by the movement for environmental justice, and the misrecognition of nature, noted in a number of ecological discourses (social ecology, ecocentrism, and even ecological economics) are integral not only to the condition of human communities and of nature generally, but also to this distributive approach to conceptions of sustainability as well. Any attempt to find common ground between sustainability and justice necessitates an examination and understanding of the misrecognition—not just maldistribution—of both those communities striving for environmental justice and the natural world. Likewise, any attempt to theorize doing justice to nature itself must focus on the capabilities necessary for that natural world to both flourish and be sustained. And all must address how we incorporate all of these concerns into just procedures for environmental decision-making, especially as we expand the concerns, and community of, justice. It is to those issues that I now turn.

## Notes

1. That said Barry (2005: 261ff.) is concerned with a theory of justice addressing environmental issues; his approach, however, is a distributive one that applies only to human relations, and not to nature—environmental, rather than ecological, justice.

2. The problem is not simply getting people to agree to such a notion, but also overcoming the distortions brought by those with power and economic interests—witness, e.g. the discussion of climate change in the USA over the past decade.
3. This idea is not uncommon in the literature. See, e.g. Dobson's discussion (1998: 202) and B. Barry's similar argument (1999). Interestingly, Benton made this same argument about ecocentrism (1993: 104). Ecocentrists, he argues, do not insist on a particular notion of the good, but they do rule out some pictures of the good by pointing out the implications of them: there is the possibility of an ordered, but still plural, social life beyond unsustainability.
4. In more pragmatic moments, theorists recognize this fact. de-Shalit (1997: 88), e.g. notes that this imagined impartial liberalism is more of an American model, while the 'social liberalism' of many other nations is not hostile to the idea of advancing certain ideas of the good, including conservation, and is generally more open to state intervention in such matters.
5. Actually, Bell and Barry revisit a similar call by Achtenberg (1993) early on in the development of ecological political thought; he argued that the neutral ground all liberal citizens can agree to is the fertile ground for the relationship between liberal justice and ecological sustainability.
6. Humphrey (2003) takes Miller to task for this last issue; he argues that *irreparable* losses should be an important part of any such calculus, thus tipping the scale in favor of preservation.
7. There are many examples here, including Barry (1999), de-Shalit (1995), and Page (2006).
8. Well, at least the immediate progeny of those developing justice in the original position behind the veil of ignorance. Rawls notes the existence of a family relationship to immediate descendants that would be part of the consideration of participants (Rawls 1973: 292; discussed in de-Shalit 1995: 100).
9. In addition to Hayward (2005a), see Wackernagel and Rees (1996) and Redefining Progress (n.d.) for more on the ecological footprint.
10. Interestingly, Low and Gleeson's pragmatic and incremental solutions for both environmental and ecological justice focus on global political institutions rather than organization in civil society (where, presumably, the demand for environmental and ecological justice originate).