

# Respecting Preferences

## *Gender Justice and the Normative Hierarchy View*

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Theorists of justice have to steer between two rocks. On the one hand, there is the intuition that an individual's morally permitted preferences should be respected: it is not justifiable to intervene with them. On the other hand, such preferences are the result of formation processes, which are notoriously vulnerable to manipulation. Does justice demand respect for preferences that produce or perpetuate injustices, suffered either by the individual herself or by others? In this paper, I will investigate this problem in the context of the ambiguous tenet of neutrality. The field of gender justice has extended Rawlsian theories of justice in order to account for structural factors, such as socialisation. Some theorists have argued that the justice-inhibiting character of some preferences implies that the first intuition should be rejected in favour of the second in some cases, which leads to the conclusion that some preferences are like obstacles standing in the way of justice and should thus be reformed. I will call this the 'Normative Hierarchy View' and argue that it is problematic. It presupposes a certain attitude with respect to those who hold the preferences, which forecloses a politically salient kind of respect. Furthermore, at the more general level, there are at least two major problems with the kind of objectification that is at stake in those accounts: it requires a reduction of practical reason to theoretical reason and is incompatible with the criterion of publicity.

In order to illustrate what is at stake in this paper, I will give an example. We do not even have to leave behind the comfort of our own home in order to encounter the central problem. There is an unjust social tendency, deeply ingrained in modern societies, to view women as being ultimately responsible for housework and childcare, even on top of a full-time job. The men in the family are often prepared to 'help out', but this very phrase suggests that the tasks are not divided evenly. Many women take on a

'second shift' as a result, in effect working two full-time jobs: one as a professional and one as a 'housewife'. This was analysed as a case of injustice in an influential book on the subject (Hochschild & Machen, 2012). I will assume throughout this paper that such situations are indeed unjust.

Let us now imagine a woman who is aware not only of this fact, but also of the sexist history that helped to produce both the tendency and the corresponding behaviours. She may still feel that it *is* in fact ultimately her responsibility to do housework and to take care of the children, so that she will prefer to do all of the work herself rather than 'delegate' it: she may consciously embrace the motives already suggested to her by the social mechanism as her own, and provide legitimate reasons for her preference. Surely, her preference is morally permissible. But there is another side to this story. Decisions such as the one I just described help to perpetuate the unjust social tendency, even if the latter did not motivate the woman in question. Her decision will emphasise the normalcy of viewing women as bearing ultimate responsibility for household and childcare tasks, which means that it will become increasingly difficult for women to take on other roles within the household. Social scientists refer to such mechanisms as forms of entrenchment. What should a theorist of justice do? On the one hand, she will reason that the woman's preference should be respected; on the other hand, she will theorise that it produces injustices insofar as it further entrenches unjust role patterns (in this case) that permeate society. This is clearly a problem, since none of the two intuitions that underlie these responses can be said to automatically trump the other.

In order to treat the problems that arise from these conflicting intuitions, some theoretical background is required. A short consideration of the Rawlsian ideal of neutrality will be followed by a general introduction

to gender justice, considered here as an extension of Rawls's project. The idea is that social mechanisms are more important to justice than the latter appreciated. Some versions of this account embrace the Normative Hierarchy View. Such a view presupposes an objective attitude with respect to preferences, which I will contrast to Ian Carter's notion of opacity respect. The political relevance of the normative hierarchy will be demonstrated by reference to the ascription of false consciousness, which is a prime example of the objective attitude at work. I will also provide two arguments against assuming the objective attitude in political philosophy, both of which build on the work on Immanuel Kant. These arguments will be aimed against the reduction of practical reason to theoretical reason and show that the problematisation of particular preferences is not compatible with the criterion of publicity. In closing, I will propose an alternative view, which does not zoom in on particular preferences, but limits itself to maximally enabling reflexivity.

### 1. A Dilemma for Theorists of Neutrality

The importance of respecting preferences was established in Rawls's foundational work for contemporary theories of justice. John Rawls's conception of justice includes what he calls the 'priority of the right over the good' (Rawls, 1999: 27-28). Rawls argues that for a society to be just, every individual participating in that society should be free to choose her own version of the good life, as well as the means to attain it. The function of the just society is not to steer the preferences of its residents into any particular direction, but rather to make sure that each resident enjoys equal opportunities to attain whichever goals she chooses. This includes a fair division among citizens of primary goods, that is to say, resources that anyone with what Rawls calls a rational life plan would prefer to have more of rather than less (ibid.: 54-55). What plan an individual chooses, however, is entirely up to her. The Rawlsian approach towards the good life, then, has neutrality as its watchword as far as justice is concerned.

Most contemporary theoreticians have joined Rawls in his plea for neutrality, although many have tried to extend it to domains they thought to be neglected by his theory. For the purposes of this paper, I will like-

wise assume that neutrality is a necessary criterion for principles of justice. However, it should be appreciated that 'neutrality' is a versatile term, which can be applied on many levels. Even for Rawls, neutrality with respect to people's notion of the good necessarily entails a negative attitude towards some states of affairs. For instance, since he is committed to religious neutrality, he will have to condemn theocratic political regimes as essentially unjust. More generally, while neutrality may seem to be a safe option and is sometimes associated with a kind of passivity, principled neutrality entails the denial that any positive argument can be made to decide the issue. In other words, to be neutral as a matter of principle between positions  $x$  and  $y$  is equivalent to the claim that there can be no philosophical grounds to justifiably prefer  $x$  over  $y$ , or vice versa – and thus to oppose any claim to the effect that such grounds have been discovered. To the theorist of neutrality, the implication of a non-neutral theory is that it would unjustly allow differential treatment of citizens on the basis of their conformity to the preferred ideal. The supposedly neutral party can thus be expected to wage war anyway, and not only on far fronts. Insofar as the theorist's goal is to bring about social reform in her own society, the elements of that society that do not conform to her political virtue of neutrality are likely to be experienced as obstacles standing in the way of justice.

This may lead to a somewhat paradoxical situation. What if the perceived obstacles include the preferences of an agent belonging to the society in question? In that case, it is unclear what it would mean to be truly neutral. If we take respect for individual preferences to be our most important value, then even preferences that produce or perpetuate injustices will have to be allowed. Thus, neutrality with respect to the aforementioned kind of preferences could lead to a non-neutral and hence unjust society. If we leave the condition of moral permissibility to one side for a moment, it is clear that the above is relevant in blatantly racist cases, for instance: preferences to the effect that members of some ethnic group are to be denied adequate schooling are obviously problematic in the context of justice. The reverse is also true: neutrality with respect to the requirements of justice requires that some preferences be treated non-neutrally. In this case, a certain feature of the just society is deemed more important than respecting all preferences equally, which would presumably be justified by reference to the effects of certain preferences upon society. For example, if racism

is unjust, we will deny card-carrying racists the opportunity to set up a system of education that is based on their specific ideology. This involves withholding from specific groups the right to educate according to one's own principles. In this sense, it constitutes a violation of neutrality.

One aspect of neutrality as an element of justice calls for the sacrifice of another aspect in both of these cases, so that we are faced with a dilemma<sup>1</sup>. I believe this tension between different versions of neutrality is an urgent problem for theories of justice that are built around this concept, and one that has not been addressed thus far. Perhaps this can be explained by the fact that theorists of justice have either relied fully on the intuition that an individual should be free to hold any morally permissible preference, or focused entirely on the role of societies in the formation of preferences. Theorists of justice have not explored the problems that result from these opposing directions of research. But while it is true that preferences have a highly personal character and should be respected, it is equally true that they have a deep and lasting impact on society.

Before I investigate potential ways to resolve the tension, two qualifications should be made. First, in order to be paradoxical, the problematic preference needs to be politically relevant. Clearly, a desert hermit with strong religious views does not pose a problem. He is entitled to hold any belief. In fact, a Rawlsian version of a just society would provide him with the primary goods needed to support his way of living. However, the problem is only avoided in this case because of the hermit's isolation from the rest of society. His convictions and preferences, as well as the actions that follow from them, are moral, not political. The problem only arises when the non-neutrality has an effect on the wider society. This is so in the case of what I will call a politically relevant preference.

Second, it is not hard to think of cases in the realm of religious convictions and preferences that have far-reaching consequences for society. It is surely unjust to force any individual to kneel before the extremism of others. However, religious extremism is sufficiently openly violent to have been prohibited by law in most countries. I will not argue for a particular position on the relation between law as a societal-corrective device and questions of justice. However, since we are speaking of cases where the theorist aims for social reform, it is clear that we need not discuss prefer-

ences that are already on the social agenda to the extent that they have been criminalized<sup>2</sup>.

At this point, it is possible to doubt the existence of preferences that simultaneously satisfy the criteria of political relevance, legality and non-neutrality. Does contemporary politics effectively silence certain groups, for instance? There is certainly no lack of groups who claim that they are being systematically disadvantaged in this way. While the status of some groups may be under siege by parties on the extreme sides of the political spectrum, legislature itself does not seem to allow for differential treatment. However, the latter qualification above does allow for a proviso. While every person is formally an equal participant in society, it does not follow that society actually treats all of those who participate in it fairly. Consider, for instance, the mentally ill, children, and women. While legislative mechanisms are in place to safeguard their interests (a sceptic might add 'or to keep up the appearance that their interests are taken seriously'), there is a variety of ways in which these mechanisms could fail to lead to the desired result. Perhaps the interests of these groups are misrepresented; perhaps the legislature is adequate in itself, but not enforced properly, etc. Thus, while 'women's issues' are undeniably on the social agenda, that fact is in itself not incompatible with unjust treatment of women. For the groups mentioned and perhaps many others, the case could be made that the real problems have not been adequately dealt with<sup>3</sup>.

In fact, many theorists explicitly make this case, particularly those operating in the field of gender justice. There is a substantial literature on this subject. Moreover, gender justice theorists have attempted to articulate a way out of the dilemma concerning us here. For these reasons, I have chosen to engage myself exclusively with gender justice rather than with, for instance, mental illness justice.

## 2. Gender Justice and the Normative Hierarchy View

Inequalities stemming from gender issues were not addressed by the theories of justice devised by Rawls and his followers. Still, the field of gender justice is currently active in criticizing particular features of contemporary society, with many theorists advocating some kind of social

reform (e.g. Gheaus & Robeyns, 2011). The underlying theories of gender justice claim to address injustices that are neglected by ‘classical’ theories, particularly ‘inequalities within the family around the domestic division of labour, especially over child care and other forms of caregiving’ (Brighouse & Wright, 2008: 360). Two further claims have to be made in order to substantiate the need for a gender justice account, the first being that such inequalities are unjust and the second that they are the product of mechanisms that are not given proper theoretical weight in other theories (and that gender justice is able to do so). I will assume the truth of the first claim. The second is central to my purposes here.

The Rawlsian tradition has often been understood in terms of two core attitudes: endowment-insensitivity and ambition-sensitivity (Kymlicka, 1990: 76-85). The endowments, or, more generally, the resources one starts out with in life should not affect one’s entitlements either positively or negatively, whereas the projects that one chooses to pursue during one’s life will mean that one will be entitled to either more or less. In the standard example: if two people start out with two identical plots of land in identical circumstances, the one who cultivates it the most and thus earns more is entitled to her profits. Rawls’s original statement of this distinction is that he aims to correct (only) inequalities that are due to factors he deems ‘contingent from a moral point of view’ (Rawls, 1999: 14). People’s autonomously chosen preferences do not fall into this category, while preferences that are for instance the direct result of growing up in conditions of extreme poverty or affluence would presumably qualify. Gender justice claims that there are important factors that are not captured by this dualism of endowment versus ambition. Of particular importance are processes of preference formation inherent in society. Consider the following case:

[T]he woman involved possesses reasons for acting as she does [i.e. sacrificing her career, JK], and she is fully and vividly aware of the way in which her desires and dispositions have been influenced by processes of socialisation. She rejects the idea that women are primarily responsible for children, but she has a deep desire to devote herself exclusively to raising her children. She acknowledges that socialisation has shaped her very identity, including her deepest needs and desires, to the point of conceding that she may not have had those desires but for her

socialisation. But she still reflectively endorses those needs and desires as her own. [...] It would not seem just to require her to bear the full cost of her decision to look after her children personally, for that would fail to give proper weight to the profound effect of sexist norms and images.’ (Mason, 2000: 242)

These are the elements that are thought to be missing from classical theories of justice: the social mechanisms that shape preferences, such as socialisation and the norms that not only guide such processes, but also assume institutional form and thus an action-guiding and limiting character, partly determining the choices of those for whose lives the norms are of importance. Anca Gheaus gives an example of an injustice that may result from the latter in the context of a discussion about the glass-ceiling effect. It concerns statistical discrimination in labour market situations. As the author explains, ‘if enough women put less time than most men into advancing their careers because they dedicate their time to meeting essential needs of [their] nearest and dearest, it may be reasonable for potential employers to expect *any* woman who has needy dependents to do so’ (Gheaus, 2012: 9; emphasis in the original). Because of the limited knowledge of any employer, this applies whether the woman under consideration accepts the relevant norms or not. What is crucial in such cases is that for the affected groups, ‘access to some central components of most, if not all, individuals’ idea of a good life’ is rendered ‘excessively, and unequally, costly’ (ibid.: 10) by gender norms. This inequality constitutes an injustice.

We now have a general picture of what is at stake in theories of gender justice. Indeed, I can do no better than a general picture, as gender justice is characterised by its internal divisions. In order to specify the kind of gender justice I will have in mind in this paper, I will proceed to summarise the kind of analysis that is characteristic of it.

The central point is that there is a dimension to human existence that escapes classical theories of justice. Preferences like those of the career-sacrificing mother described above may seem innocent and indeed legitimate enough, but because of the gendered society in which her decision to devote herself to raising her children is situated, we should not just ask whether or not she is free to live according to her preferences, but inquire into the wider social effects. Her lifestyle choice ‘has a direct impact in raising the

costs the woman would have to pay in order to (re)join the labour market (if she stays at home), or to engage in a more successful career (if she works part-time); it also has an indirect effect on the costs other women will have to pay for access to the labour market by validating, and thus entrenching, gender norms, including those that lead to unconscious and statistical discrimination of women' (Gheaus, 2012: 21). Therefore, from the viewpoint of gender justice, the costs of a 'gender-neutral' lifestyle should be lowered relative to gendered lifestyles as much as is possible (ibid.: 16, 21). For the purposes of this paper, gender neutrality as an ideal can be thought of in quite general terms as the extension of the Rawlsian idea of neutrality to domains that Rawls never theorised on: in this case, the specific problems raised by relations between the genders.

This kind of analysis fulfils the criteria established in the first section: it is deemed problematic that formation processes exert influence over the preferences women come to hold in ways that lead to injustices. This fulfils the criterion of non-neutrality on some level, because neutrality with respect to preferences is sacrificed here for neutrality on the level of the just society. Furthermore, the decision of the career-sacrificing mother is a prime example of a politically relevant preference because of its entrenching effect. Secondly, it is morally and legally unproblematic. Finally, the authors discussed strive for some kind of social reform.

This way of theorizing is one way of resolving the tension that was signalled at the very beginning of this paper. If we are serious about creating a (gender-)neutral society, it follows that some preferences, namely those which can be explained by reference to formation processes of a particular kind, are not worthy of the same respect as other preferences. Notice that this is true for the arguments presented here only in a very subtle way. They do not implore us to remove individuals with certain preferences from society: they only implore us to remove them from the *ideally just* society. Nevertheless, it does follow that their preferences are, in the earlier sense, like obstacles standing in the way of justice. It would be better (from the viewpoint of justice, at least: there may be overriding reasons to be addressed in other domains) if they were not there<sup>4</sup>.

Let us assume for the sake of the argument that the effect of norms on preferences is sociologically observable. This hardly seems a problematic

assumption: in fact, we may wonder whether *any* preference would exist without such formation processes. As the literature on gender justice suggests, preferences are not 'given' in any sense – rather, they are produced and are self-reproducing because of their entrenching effects. These two dimensions of preferences correspond to a view of them as respectively having been caused and themselves being the cause of other (similar) social phenomena. Gender justice theorists think of preferences in these terms: because they were formed in a certain kind of society, they were decisively influenced by some pre-existing form of sexism and will perpetuate gendered practices at the expense of women in the future. There are preferences that do not have this unjust kind of structure or impact: on that basis, we can establish a normative hierarchy of preferences. Morally permitted preferences that have justice-inhibiting qualities are on the 'wrong' end of the scale; those that are neutral with respect to justice are somewhere in the middle; and those that promote justice are to be found in the higher regions of the scale. I will refer to this view of preferences as a feature of some theories of gender justice as 'the Normative Hierarchy View' (NHV). For the sake of clarity, I will recapitulate its main points. A proponent of NHV subscribes to the following tenets:

- i) Preferences are subject to formation processes;
- ii) Preferences have a societal impact;
- iii) It is possible for a particular morally permitted preference either to (a) have unjust societal consequences, (b) to be neutral with respect to justice or (c) to be justice-promoting;
- iv) When it has unjust societal consequences, the preference itself is like an obstacle standing in the way of justice;
- v) Thus, justice requires that the societal impact of preferences with unjust societal consequences be altered. This is to be done by social reform aimed at influencing particular formation processes.

The normative hierarchy itself groups preferences together on the basis of their consequences in terms of justice. It maps them onto a normative scale. This is needed because in order to effectuate the right kinds of social reform, it will first have to be known how particular preferences 'rank' when seen from the point of view of justice.

### 3. A reconsideration of Strawson-objectivity

The establishment of such a hierarchy with a view to promote one kind of preferences at the cost of another kind presupposes the assumption of a certain attitude towards the individuals that hold them. Peter Strawson has considered the question of proper attitudes in normative contexts, namely in the context of morality and free will. He distinguishes between the attitude of 'involvement or participation' and 'what might be called the objective attitude' (Strawson, 1974: 9). I will first briefly describe Strawson's account of these 'reactive attitudes' and then try to incorporate it into political philosophy.

Strawson's objective and participatory attitudes are types of reactions to behaviour: 'the compulsive behaviour of the neurotic' and 'the tiresome behaviour of a very young child' (Strawson, 1974: 10) call for a kind of distance that leads us to judge these kinds of behaviour differently: this is what he calls objectivity. If an individual is a neurotic or a child, as in these examples, this serves to qualify the extent to which she is subject to blame. It is as if, by assuming the objective attitude, we relieve her of some of the duties that usually attach to human existence.

My concern is political rather than moral. Although Strawson's original concept of objectivity may indeed be proper in the context of social policy as opposed to the personal realm, I will attempt to reinvent his distinction in such a way that it applies within the political realm itself. This implies, for our purposes, that there are policy situations where the objective attitude should not be assumed. The altered version of Strawson-objectivity I have in mind will draw on Ian Carter's (2012) introduction of the notion of the objective attitude in the context of political philosophy, as well as on his proposed alternative. It is this political notion of the objective attitude that will be applied to the dilemma I started out with. To recapitulate: the ideal of neutrality is ambiguous in the context of preferences. In particular, theorists of justice have to choose between neutrality with respect to preferences on the one hand, and neutrality as relevant to the just society on the other. We have seen that NHV solves the dilemma by preferring the just society to have equal respect for preferences: in other words, if particular preferences are obstacles standing in the way of justice, then they should be reformed.

This idea of the desirability of reform casts those whose preferences would be reformed in a certain light. It should be clear that I do not advocate that policymakers should view the objects of their policies in the same way they view their friends. Nor will I comment on the perception any theorist has of her own work, as either an 'objective' or intersubjective contribution to science or philosophy. The point is rather that to assume the objective attitude with respect to individually held preferences is to conceive of them as matters to be 'cured or trained', so that we can at most 'pretend to reason' with those who hold the preferences insofar as we view them objectively (cf. Strawson, 1974: 10). This is the common denominator of the moral and the political use of the concept 'objective attitude': in the case of the neurotic or the child, we recognise that their subjectivity only problematically allows for the usual judgments of blame. I will argue that NHV likewise problematises the subjectivity of individuals.

Three steps are to be taken in order to evaluate what the consequences of Strawson's distinction are for our case. First, the argument that I will develop presupposes that NHV is characterised by the objective attitude. Second, I will proceed to investigate and assess Ian Carter's explicit rejection of the objective attitude in the context of political philosophy. Third, I will proceed to what is perhaps the most (historically) significant instantiation of Strawson-objectivity in the context of politics: the ascription of false consciousness. The comparison between particular versions of gender justice and Marxism will serve to highlight some important features of the political variety of Strawson-objectivity, as well as reveal some problems.

To establish that NHV does indeed assume an objective attitude, I need to consider the way it conceives of the preferences it deems problematic. It seems clear that with respect to structurally biased preferences, NHV attempts to supply reasons in order to reform such preferences, and to remove the elements of society that have produced them. Because this applies to some, but not all preferences, we are left with a normative hierarchy. Curing and training is all that can be done. In this analysis, preferences are constituted by their history in such a way that even the reasons that are supplied in support of them are seen as derivative of social mechanisms. We can surely not say that those who hold preferences on the 'wrong' end of the scale are given a fair hear-

ing on this account. If we consider preferences to be comprised of both their content and their history, then, indeed, NHV is characterised by an objective attitude towards them.

This leads me to consider a contrasting account of how political philosophy should approach preferences. Carter (2012) argues that respect of the kind that is needed to ground egalitarianism is possible only if there is no concern for ‘internal constraints within particular agents’: from the point of view of institutions, we should only consider the ‘outward dignity’ of individuals. That is to say, in order to ascribe ‘dignity as an agential capacity’ to any individual we do have to establish whether a minimum of empirical conditions obtain, but not *to what degree*<sup>5</sup>. An example is in order here. Let us suppose that for an individual to count as equal to all others, she will have to possess rationality. It would now suffice for an individual to possess rationality above a certain minimum in order to be treated as an equal. This cut-off point is necessitated by the fact that going beyond this, that is, trying to account for *degrees* of rationality, leads to the conclusion that there is no basis to view all individuals as equals (Carter, 2012: 559, 558, 541ff.). After all, not all individuals are created equally rational. In order for egalitarianism to be justified, then, individuals should be granted the right to ‘conceal’<sup>6</sup> features of themselves (for instance, to what degree they are rational, above a certain minimum) from policymakers. Carter goes on to reflect on the virtue of a certain kind of political blindness:

‘The ethical commitment not to expose agents to [a problematisation of their subjectivity, JK] is illustrated by the high value that political liberals place on liberty in the negative sense of the term. Negative liberty is normally thought of as the absence of constraints that originate “outside” the agent. Positive conceptions of liberty, by contrast, take into account constraints that have their origin “inside” the agent —constraints like weakness of the will, the endorsement of distorted or illusory value perspectives, or the propensity to make choices that are irrational and/or influenced by various alien forces. As a result of their focus on the external conditions of freedom, liberals are often accused of short sightedness, of being “blind” to those less obvious internal constraints on freedom that are visible only to the more penetrating eyes of the advocate of positive liberty. But the blindness is deliberate, the lack of penetration a conscious [...] stance.’ (Carter, 2012: 558-559)

In order to see how this affects our investigation of gender justice, we need only to consider that the analysis required by NHV is precisely of the ‘internal’ kind, bearing on particular preferences. It does not seem unwarranted to assert that the gender-problematic preferences fall into the category of ‘endorsement of distorted value perspectives’. Thus, we could apply Carter’s analysis to contend that in order to apply a normative scale to an individual’s preferences, we would already have to withhold from them the respect they are due. Carter (2012: 559) calls this kind of respect ‘opacity respect’ and remarks that ‘adopting [...] what Strawson called an “objective attitude”’ is a violation of it. Indeed, it seems clear that seeing certain people as objects in need of repair is a problematisation of their subjectivity and that on Carter’s account, there are good reasons to resist such an attitude in the context of political philosophy.

One may object that this analysis departs from a very particular notion of respect. Carter thinks it is required in order to provide a sound basis for egalitarianism, but perhaps his argument is flawed, or there are other such bases, or perhaps egalitarianism is best avoided. We should recognise, however, that it is plausible that opacity respect is a salient kind of respect, as it is possible to argue that political relations could in general be described as requiring opacity respect. To give some examples of this: we do not expect the state to form judgments as to the degree in which we are capable of, for example, casting sufficiently informed votes, making rational decisions, adopting the right goals, choosing the right partners, having children at the most suitable moment in our lives (cf. Carter, 2012: 554 f.). The state’s occasional failure to respect its boundaries has provoked Elizabeth Anderson into exclaiming: ‘How dare the state pass judgments on its citizens’ worth as workers and lovers!’ (Anderson, 1999: 305). The importance of such a demarcation between the domains of competence of the individual and those of the state is entirely consistent with the Rawlsian framework assumed by this paper, and with liberal political philosophy more generally. Of course, this is precisely the reason why some gender justice theorists would reject Carter’s account: liberalism will not do. However, the discussion of Carter does show that many ‘common sense’ views on political relations and perhaps the basis of egalitarianism itself depend, to some degree, on a rejection of Strawson-objective attitudes. What remains to be seen is what an application of Strawson-objectivity in the context of politics would entail.

Like the Strawson-objective attitude, opacity respect requires a certain kind of distance. The two kinds of distance in play, however, are very different from one another. While Strawson-objectivity concerns treating individuals in a way that partially robs them of their humanity, opacity respect ignores certain features of human beings as a matter of principle in order to treat them as fully human, a trait they have in common with all other humans. Especially when applied to my case, that of preferences, a remarkable reversal can be seen: the Strawson-objective attitude starts out with the observation that particular preferences lead to injustice. Hence, justice requires that such preferences be reformed. The distance required in order to exercise opacity respect, by contrast, refuses to take particular facts about individuals into consideration, because it values the conclusion that all are, in fact, equal for political purposes. While Carter's attempt to provide a solid basis for egalitarianism provides a useful contrast to Strawson-objectivity, an example from politics itself will shed further light on its political variety. By presenting it, I want to highlight the applicability of the concept, and also to discuss a case of Strawson-objectivity that is politically problematic.

A particularly political hierarchy of preferences was established in the context of Marxism. The concept of false consciousness was invoked in order to explain why some had heard the objective truth of Marxism, but had not been persuaded by it. In this way, the ascription of false consciousness is part of ideology critique<sup>7</sup>, of which Peter Sloterdijk (1983: 54) has stated that it necessarily entails an 'objectification' of the opponent. This is so because in order to engage in ideology critique, we have to provide an explanation for the opponent's position that operates behind her consciousness, thus stripping her of her subjectivity. After all, one is never *consciously* helpless to fend off the influence of an intruding ideology, so that someone will have to point it out to us that we are in its grasp, though purely rational means may not suffice in such cases (cf. Kloeg, 2011: 7f.). In the context of gender justice, we may say that someone who spends enough time under the influence of gender-biased media is likely to take on a gender-biased position herself, even without her knowing it. If such influences exist, then rational argumentation will not be sufficient to counteract them. Again, we can at most 'pretend to reason' with such a person, and will finally resort to 'curing or training' her (cf. Strawson 1974: 10)<sup>8</sup>. Clearly, then, the ascription of false consciousness is a prime example of the objective attitude, and one history

has shown to be quite problematic. Again, to invoke this kind of explanation is to cast 'dissenters' in a certain light. There are at least two major arguments to be made against such an approach.

#### 4. Moral personality

Carter's account described above presents us with an argument from egalitarianism, which establishes the conclusion that a politically salient kind of respect is violated if we assume a Strawson-objective attitude. In this section, I will develop arguments to the effect that human moral personality exceeds any set of statements of fact about human beings, building on the work of Immanuel Kant. These arguments combine well with Carter's view that moral personality supervenes on empirical qualities (we have considered rationality), which offers a way to make empirical science relevant for political philosophy. I want to have my cake and eat it too: empirical science is indeed relevant, but moral personality still needs to be distinguished from empirical matters. The two sets of arguments do not depend on each other, but should be viewed as complementary objections against Strawson-objectivity in general and NHV in particular.

My strategy consists of two parts. First, I will consider the reduction of practical reason to theoretical reason. Political philosophy is not just a description of what is the case in the world, but is inherently normative. It therefore seems that more than just (empirical) statements of fact are relevant in this context. NHV incorporates empirical facts too directly, or so I will argue. Second, I will proceed to consider this reduction in the light of the criterion of publicity, which states that principles of justice should be able to generate their own support if they were made public.

##### 4.1 The reduction of practical reason to theoretical reason

There is a difficulty stemming from an all too direct use of empirical data concerning preference formation in the context of practical philosophy. I have already considered an elaboration of the case of a career-sacrificing mother who 'possesses reasons for acting as she does', but is not to be held fully accountable for her decision, because of the influence of sexist norms



and images (Mason, 2000: 242). Such an analysis suggests that if structural factors could be made to impact the mother's decision differently, she would be more likely to decide differently as a result. She would presumably also offer different reasons in support of her way of life. In other words, the reasons she offers vary with the kind of structure that shaped them. Her reasons do have causal power in the sense that her behaviour can be explained in part by reference to them, but it is very possible to regard the content of her reasons as having themselves been caused by structural factors.

The picture thus painted requires that we think of individuals, their particular preferences and the reasons offered in support as products of structural features of their environments. Of course, the theorist of justice is also in the business of offering reasons, albeit in a more theoretical and systematized fashion. It is surely the latter characteristic of her reasoning to which a theorist would point if asked why her arguments should be accepted at all: science can offer us a larger perspective, thus increasing our understanding of the world. But what if her scientific arguments clash with the morally permitted preferences of individuals? The only 'scientific' response is to reduce the domain of their practical reasoning to underlying societal patterns that can be empirically observed. We could wonder whether such a reduction has normative consequences. Immanuel Kant has argued that even complete predictability of an agent's conduct would not be a sufficient condition for the rejection of freedom, conceived of as a practical postulate:

'If it were possible for us to have so deep an insight into a man's character as shown both in inner and in outer actions, that every, even the least, incentive to these actions and all external occasions which affect them were so known to us that his future conduct could be predicted with as great a certainty as the occurrence of a solar or lunar eclipse, we could nevertheless still assert that the man is free.' (Kant, 1788/1949: 204-205)

Thus, Kant hammers home the point that there is a difference between the theoretical and the practical perspective. The most radical consequence of his view that *Sein* (the constitution of reality) occupies a different realm

than *Sollen* (moral obligation) is that we may not infer an instance of the latter from any particular matter of fact<sup>9</sup>. For our purposes, it would follow that whether or not structural factors can reliably predict an agent's choices, we should still consider her to be free in the practical sense needed to apply normative criteria. In the words of Rawlsian liberalism: to uphold such an image of the free agent in the face of what might seem to be watertight empirical explanations of behaviour is 'political, not metaphysical'<sup>10</sup>. We should conceive of other people as being able to act freely: if not, then we deny they have a capacity to act morally, i.e. to make their own choices, thus robbing them of their dignity. Kant puts it as follows: '[M]orality is the condition under which alone a rational being can be an end in himself [...]. Thus morality, and humanity as capable of it, is that which alone has dignity' (Kant, 1785/2008: 73).

There is another conclusion to be drawn here. It follows from Kant's well known formula that 'no agent should ever be treated solely as a means, but always also as an end in himself' (Kant, 1785/2008: 65) that it is immoral to view the actions of particular individuals, let alone human agency in general, as being determined by external causes, or as heteronomous, rather than by their own autonomy. This is so because the heteronomous human being cannot be said to possess dignity, at least according to Kant.

There is surely a sense in which he was right. From the perspective of justice, reducing practical reasoning to a set of empirical conditions is a *carte blanche* to fans of paternalism, who are free to explore the consequences of a human species incapable of being an end in itself – so that a human being is now merely a means. To forego the category of autonomy in political philosophy in this way<sup>11</sup>, while at the same time continuing to formulate substantive normative guidelines (as ends) is to turn the tables on the idea of neutrality. For if we would demand compliance to these normative guidelines, we would deny those affected by them the opportunity to relate to them in a meaningful way. Instead of heeding their words of protest, we would have to tweak them into compliance, as Strawson might have put it. Thus, the right to determine the meaning of a good life, which was, according to Rawlsian neutrality, the prerogative of individuals, has now been transferred to those in a position to

manipulate others. Politics has been transformed into social engineering and solutions to problems of injustice will have to be phrased in terms of the latter<sup>12</sup>.

At this point, one may object that I am presupposing that the political philosopher has a particular role to play in society. This may or may not be warranted, the critic continues, but in this case it is problematic because it is not the role that gender justice theorists themselves see as properly theirs. My earlier claim that Strawson-objectivity is not concerned with the view any theorist has of her own work now seems problematic. In order to reply to this line of criticism, I will give an overview of possible conceptions of the role of political philosophy and consider whether any of them affects my argument, and if so, in what way. We should begin by remembering that proponents of NHV see some preferences as problematic and advocate the solution that they be reformed in some way: but how should we understand this call for reform? The three possible conceptions I will consider are to be understood in terms of the role political philosophy has to play in relation to public debate.

The first conception of the role of political philosophy is that it should overrule public debate completely. No matter what the prevalent values of a given society are, philosophy should tell us, for every political problem, what the best solution is. It is clear that my argument works in this case, because political philosophy would completely ignore the autonomy of individuals. Potentially, it would oppress and manipulate them. In another vocabulary: this approach is completely top-down.

The second is that political philosophy should clarify or regulate public debate. In both of these capacities, political philosophy is able to judge public debate and function as a kind of referee. Thus, while the philosopher does recognise its value, she simultaneously places herself outside of it. This a hybrid form, which recognises that political philosophy cannot supply all values, but still sees it as its task to comment on the way values have been shaped within a given society. This conception, like the first, would phrase the solution to societal problems in terms that presuppose Strawson-objectivity. The political philosopher enjoys a privileged position and knows best as a result.

The third is that the political philosopher should ‘merely’ participate in public debate, that is to say, consider herself to be on equal footing with any other participant (‘all votes to count as one’). This approach is completely bottom-up. Would it make my argument problematic? The intended impact of a philosophical position should be distinguished from its contents: and I think that in this case my argument is justifiably applied to the contents regardless of the intended impact. Even if we conceive of NHV as nothing but a template for discussion, its contribution to any actual discussion would still consist in a reduction of the practical reason of some individuals to theoretical reason. This is equally true for all three conceptions.

I have by no means provided a complete overview, but I think the above considerations make it plausible that my argument does not depend on theorists’ views on the role of political philosophy in society.

A further point should be made here. In some cases it seems perfectly legitimate for a gender justice theorist to advance reasons why particular preferences should be reformed. Let us imagine a theorist speaking at a conference in an attempt to convince her audience to be mindful of the unwanted societal consequences of some morally permitted preferences. She may well point to particular kinds of preferences as examples. I readily concede that this kind of setting evades my argument, but only because of a change of scenario: the theorist at the conference is not discussing the just society, whereas this is precisely the point of NHV. The latter requires that particular preferences be identified and grouped together on the basis of their consequences in terms of justice. If a preference is identified as having unjust societal consequences, NHV prescribes social reform. At this point, we should recognize that advocating political measures (such as social reform) is not on a par with exchanging arguments with individuals. Gender justice theorists generally recognize this distinction: it is no coincidence that they phrase their solutions in terms of social reform. In particular, NHV does not advise us to argue with every individual whose preferences have unjust consequences. This is understandable, because in some cases the willingness of an individual to accept conclusions may itself be influenced by preference formation processes: I have already pointed out that according to NHV the reasons offered by individuals will vary

with the kind of structure that shaped them (reasoned arguments are insufficient when gender-biased media exert decisive influence, to recall an earlier example). But it also means that NHV assumes a Strawson-objective attitude and is thus susceptible to my argument.

#### 4.2 The criterion of publicity

The criterion of publicity requires principles of justice to be able to generate their own support if they are made public: if the general population resists the principle, this tells us that the latter does not really promote justice. The criterion was introduced into political philosophy by Immanuel Kant (1795/1984) and is also a component of Rawls's theory of justice. Let us assume that it is indeed a criterion for principles of justice. Strawson-objective attitudes in the context of justice are then problematic. To invoke an objective explanation for a set of preferences and then to claim that the composition of the set should be altered requires not only the reduction put forward in the previous paragraphs, but also a normative scale that orders preferences in terms of their desirability. If we assume that individuals are born into different sets of circumstances, and display a wide variety of preferences, there will be individuals whose way of life is to be found at the wrong end of that scale. No matter how they react, they will incur costs as a result. Either they will switch lifestyles when confronted with the scale, thus having to live in ways that they are not optimally suited for because of their past lives, or they will have to come to terms with the higher price tag henceforth attached to their preferred way of life. Perhaps an example will serve to make this clear: an individual may have a strong preference, say the idea that motherhood and the pursuit of a career are compatible, and have invested a lot of time and effort into a lifestyle that is built on this idea. Its rejection would thus require that she forfeit her investments and, additionally, invest additional resources into a new way of life. This may entail re-education and a switch from one social group to the other, for instance. If she does not choose to reject the idea, she will likewise incur costs when the scale is applied.

Perhaps even more crucially, there is also the matter of principles. Those who do not already live 'neutral' lives would be exposed to treat-

ment that can be compared to the examples that Wolff (1998) describes as instances of 'shameful revelation'. While it can be humiliating to have to reveal that one lacks talents others have, it is surely no less humiliating to have to admit to oneself (let alone to others) that one's preferences go against the interests of other groups. Let us revisit the idea of the compatibility of motherhood with the pursuit of a career. It would surely be an immense blow to the values of those living in modern Western societies, whether they are themselves mothers or not, if such a preference turned out to be the dubious product of prior circumstances. More generally, assuming that the causal link between an agent's environment and her preferences is tenable, such an instance of shameful revelation would signify that the way the individual (say, the mother pursuing a career) has been brought up was wrong, that at least many of the influences that she internalized have led her astray. Like the talents we lack, the circumstances into which we are born are not the product of our choices. It may be more meaningful to insist on the reverse claim that our circumstances selected many of our characteristics for us. If this holds for those preferences that are of great importance to us, and it is subsequently declared that our preferences are harmful to society, this is likely to be somewhat of a shock. Any institution that would attempt to justify such a position would surely meet with resistance of those who are affected. Imagine what a letter from the Equality Board<sup>13</sup> on this subject might say:

To those who do not already live as prescribed by recent policy measures: we feel sorry to inform you that the way you choose to conduct your life, as well as your preferences more generally, can ultimately be explained by reference to the environment in which they were shaped, and that this has proven to be an influence that leads you to prefer ways of life that lead to social injustices. Perhaps your upbringing was wrong, or perhaps you were exposed to other corrosive influences. We would like to emphasise that you cannot be blamed for the way you turned out. The EB will endeavour to provide you with opportunities to eradicate the older influences in favour of better ones as soon as possible. We will also provide specially tailored schooling for your children in order to compensate for the influence your current lifestyle has to date exerted on them, and perhaps will continue to exert on them in the future.

Many people would be enraged if such a letter were to fall on their doorstep, whether or not their lifestyle actually conflicted with the principles embraced by their government. The point is not only that we would feel humiliated if addressed in such a manner ourselves, but also that no one should be treated in this way. No government would dare to send a letter like this, no matter how carefully worded. So perhaps its officials would try to keep their measures quiet. They would have to depoliticise their own actions, treating the results as anonymous forces rather than the result of reasoned political decisions. The very fact that they could not be made public may lead us to pursue several lines of argument. We could follow Rawls, and reason that a political structure that embraces principles unfit for publication is unstable because the principles will shape society in ways that do not correspond to citizens' wishes in this respect, thus leaving them with a disincentive to participate in social cooperation on a state-level (Rawls, 1999: 15, 153-158), perhaps preferring to form fringe groups directed at political reform. To put it more simply, we should not expect those who have been exposed to this kind of measure, whether explicitly or only by perceiving their effects, to cooperate with the political actor responsible for them as if nothing had happened. Kant (1795/1984: 50) takes an even more principled stance, stating that 'all actions relating to the right of other human beings are wrong if their maxim is incompatible with publicity'.

Again, it seems that these arguments have some force. The objective attitude is typically assumed in cases where we feel a certain kind of reaction is called for. Revealing cases where the objective attitude is appropriate are Strawson's examples of the neurotic and the young child. If we are indeed to approach individuals with certain sets of preferences in a similar way, it seems that both Rawls's and Kant's arguments obtain. Whether policymakers would be quiet about the objective attitude they assume or not, the latter would indeed count as a disincentive to participate in social cooperation, and referring to the general population in such terms would indeed seem to constitute a wrong. This is all the more apparent if we remind ourselves that the preferences under consideration are morally uncontroversial.

I think these arguments show that the problem presented by preferences cannot be solved by NHV. More generally, every theory of justice that depends on the assumption of an objective attitude will have to ward off these very arguments, cashed out in a way that depends on the specific theory at issue.

## 5. The search for alternatives

We should thus avoid Strawson-objectivity when thinking about justice. In the context of moral philosophy, this attitude is akin to 'keeping one's distance' as a means to suspend harsh judgments on those who we feel cannot be held responsible for their actions. In political philosophy, the requirement to keep one's distance, that is to abstain from judging factors internal to the agent, actually precludes the kind of diagnosis that would be needed in order to assume an objective attitude. If we start by assuming that some particular preferences need to be fixed, reformed, and the like, we run into the objections envisaged in this paper.

If my account is convincing, we are left to wonder what alternatives to pursue. Preferences seem to pose a fundamental challenge to 'classical' theories of justice, as was recognised by the gender justice theorists I discussed: but if their accounts can, in turn, be justifiably argued against, as I have tried to do, then it seems we have reached an impasse. Surely it is not desirable to return to a theory of justice that takes individual preferences at face value? It seems intuitive that the (empirical) observations that motivate gender justice should affect our thinking about social reforms, particularly if we are political philosophers. Is there a third way?

I believe that Carter can point us to a possible solution. He advocates 'an indirect pursuit of equality', which he takes to describe practices that aim to make the distribution of resources (very broadly construed: I will use the ability to make informed decisions as an example shortly) as equal as possible 'without assessing the degrees to which individuals [currently] possess' the relevant resources (Carter, 2012: 562). We need only refrain from such assessment if the resources are of the 'internal' kind (ibid.). The focus should be on 'other goods, the distribution of which is in some way empirically correlated' to the distribution of the resources under

consideration (ibid). Institutions should try to create circumstances that will generally foster the positive freedom of individuals, while abstaining from the identification of particular constraining factors. The amelioration of societies should thus be based on considerations of a general nature (cf. ibid.: 559). To give an example of how this works: if a policymaker wants all citizens to be equally able to make informed decisions, her first step should not be to assess the degrees to which each individual is capable of doing so currently. Instead, she should try to establish empirical correlations. Let us assume empirical studies find that adequate schooling generally enables one to make informed decisions. In that case, the policymaker should aim to provide adequate schooling for all citizens in order to achieve her original goal.

I am here advocating that Carter's approach to distributive questions be applied to the case of preferences. By taking this route, we can do the extremely valuable empirical work of establishing correlations, but without using the particularities of the data to directly inform our theory of justice, which would imply the assumption of an objective attitude.

The empirical work would surely (need to) shed light on preferences and formation processes. But we need to be careful when drawing the normative consequences from such information, because preferences are indeed of the internal kind. An indirect pursuit of justice is called for in response to the societal impact of preferences. Such a pursuit should not begin by seeing certain kinds of morally permitted preferences as problems to be solved, but theorise instead on considerations of a more general nature. At present, I can do no more than offer my own intuitions and give some examples as to how the alternative approach might work. Further research has to be done in order to substantiate what now remains a somewhat speculative proposal.

The ability to reflect on one's preferences will generally enable one to take the societal consequences of one's preferences into account, while also mediating the influence of antecedent formative processes. Intuitively, if more individuals would possess this ability, society would become more just, because it is precisely the ease with which societal consequences are overlooked and the self-perpetuating force of formative processes that lead to the kind of injustice I have considered throughout this paper.

This intuitive link between the ability to be reflexive and just outcomes, if convincing, should motivate us to seek out empirical correlations. Consider, for instance, the courses on comparative religion that are sometimes taught in schools. The realisation that there are other profound religions enables someone who has been raised in a strictly Christian environment, for example, to reflect on beliefs and practices that would otherwise have been taken for granted (or rejected out of hand). A similar course could be offered as part of a social science curriculum: one that covers different ways of seeing the relations between the genders in a fair and balanced way. Someone who has been raised in a gender-biased background may take pause to reflect: the most important thing is that she will be able to do so. We have seen the concept of distance at work in both Strawson and Carter: the ability to assume a (reflexive) distance towards one's own preferences is the third branch on that tree.

None of this is to say that preferences that have been reflected upon are in any way better than other preferences, or that reflection should be made obligatory. I have been describing the merits of an ability, not of an actual practice. Nor am I assuming that everyone will be completely convinced by the cause of gender justice, or by any other position, for opposing positions will also be expounded. After all, the student who was raised as a Muslim or an atheist will also learn about Christianity, and the feminist student will also learn about more traditional ways. Finally, it is not possible for earlier formative processes to be cancelled out entirely, so that they will continue to exert some influence. But, given that the resulting preferences are morally permissible, why would we want to cancel out entirely the processes that produced them?

The point is that the ability to reflect on one's preferences allows one to take on a more neutral perspective with respect to the preferences themselves. It is precisely the kind of neutrality that Rawlsians and gender justice theorists alike embrace as their political ideal: seeing beyond one's own particular interests and taking alternative points of view equally seriously. This kind of approach would avoid the charge of objectification because no one is deciding on the relative (de)merit of any given preference. Instead, I am recommending that the freedom (not) to adopt any preference be enlarged to the highest possible degree by presenting as

many alternatives as possible in a fair and balanced way. I think we can hope to solve the second shift and career-sacrificing mother cases only by maximally enabling 'second shifters', career-sacrificing mothers and all those who help to shape the lives of both (for instance, those who share a household with them) to reflect on the preferences involved and the resulting ways of life.

Of course, there are many ways to incorporate this account into a theory of justice, so that the sketch presented in this section is by no means a full-fledged theory. While this paper did not set out to develop a complete theory of justice, my hope is that it has cleared the way for other papers to do so. One of the most important remaining tasks is to provide a precise definition of reflexivity and to develop the intuitions and hypothetical empirical correlations that I have put on the table.

At this stage, however, I find it likely that an adequate theory of justice would involve some kind of unconditionality. The theory could not proceed in terms of the identification of individuals and their differential properties (including preferences) in a direct way, imparting benefits to the group on the 'right' side of the threshold, and not the other. A popular move is to compensate only those disadvantaged individuals who are not themselves responsible for their disadvantaged position. However, it is not up to theories of justice to make such distinctions of responsibility<sup>14</sup>, which does not preclude that such distinctions may be of value in another way.

## Conclusion

Preferences are a problem for theories of justice, because they are personal and deserving of respect on the one hand, and have a deep and lasting impact on society on the other. In response to the ensuing dilemma, proponents of NHV have argued that justice requires the reform of particular preferences, namely those that can be found at the wrong end of the normative hierarchy. According to my analysis, this presupposes Strawson-objectivity: individuals are seen as having preferences that need to be cured or trained. Ian Carter's notion of opacity respect supplies an alternative, so that Strawson-objective accounts of intuitions may be countered by invoking Carter. He argues that the kind of diagnosis required in order to

assume such an attitude already requires a violation of a politically salient kind of respect. Furthermore, at the more general level, there are at least two major problems with the kind of objectification that is at stake in those accounts: it requires a reduction of practical reason to theoretical reason and is incompatible with the criterion of publicity.

While NHV is an attempted solution to problems that are very real, I have concluded that its stress on the societal impact of preferences leads its proponents to forego the personal aspect of preferences. I have argued that autonomy should not be sacrificed in this way. It is also clear, however, that the (empirical) observations that inspired the accounts of gender justice reveal striking injustices. As a possible way out of this impasse, I have taken Carter's argument that equality should be pursued indirectly and applied it to preferences. I have concluded that particular preferences should not occupy theories of justice, but that in general, we should pursue justice indirectly by maximally enabling reflexivity. What this entails in specific cases will depend to some extent on the notion of reflexivity that is adopted.

Preferences need to be addressed by theories of justice – but addressed with much care.

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## Editorial note:

Since this essay was written by a member of the editorial board of the Erasmus Student Journal of Philosophy, it was subject to a more extensive review procedure. For more information, see <http://www.eur.nl/fw/english/esjp/submissions>.

## Notes

1. The dilemma is similar to the potential conflict between fairness and respect as described by Wolff (1998, 2010), and with the so-called 'liberal paradox' of whether or not to tolerate the intolerant. However, in our case, respect does not essentially apply to the status of persons, but to their preferences. We will see what exactly this entails in the context of our discussion of gender justice.
2. In the next paragraph, I suggest there is a gap between an issue's being on the social agenda and its being effectively counteracted. However, we should also note that there may be preferences on the societal agenda that have been criminalized, for instance, the criminalisation of homosexual acts and relationships. This entails that even though the social status of a preference is an important heuristic device, we have to be able and willing to re-examine cases where we have intuitions or reasons to think that a given preference requires philosophical examination.
3. Perhaps, as suggested by the idea of 'repressive tolerance', the popular illusion that feminism has accomplished its goals itself contributes to the continued subjection of women, because their position in modern societies is no longer seen as problematic.
4. That is to say, the preferences as they are (including their history in terms of gender formation processes) are an object of criticism for 'extended' theories of justice. I will speak of 'preferences' in this sense for the remainder of the paper.
5. Carter uses the notion of 'range properties': for an explanation of the kind of property he has in mind, see Carter (2012: 548-550) and Rawls (1999: 443).
6. Carter insightfully compares this to Thomas Nagel's (2002) notion of concealment as a basic human need.
7. Similarly, some feminists find an explanation for its only partial success in the fact that society is shaped and continues to be shaped in ways that counteract the basic tenets of feminism, so that even most members of the group whose interests it represents have internalised justice-inhibiting norms and acquired justice-inhibiting preferences.
8. Another way to look at it would be as follows: if we come to the conclusion that her position is wrong, but are unable to convince her by our arguments, then there must be some factor that is inhibiting her judgment. This kind of analysis is characteristic of the ascription of false consciousness, but not of the assumption of the objective attitude in general.
9. Moore (1903) is the canonical work in the later tradition; for a dissenting view, see Searle (1964). I will assume throughout this paper that there is in fact a difference between *Sein* and *Sollen*.
10. See Rawls (1993).
11. Autonomy may, of course, enter at a later stage, such as Rawls's 'reflexive equilibrium' (1999, e.g. 18-19 and 42-45). My contention is specifically that it should be part of considerations of justice itself.

12. Compare the following analysis of the 'expert state': 'Everything transpires as though the [just] law could be read in the open book of society's statistics or on a world map' (Rancière, 1992: 253).

13. The letter is inspired by similar ones composed by Anderson (1999: 305), which inform citizens that they were selected for compensation because of their lack of talent, disability, or ugliness. Anderson speaks of a 'State Equality Board', but we may equally think of an institution or an association of citizens.

14. Compare Wolff's (2010) criticism of Anderson (1999) in the context of the capability approach.

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