

David Miller

# Needs-Based Justice

## Theory and Evidence

**Abstract:** The aim of this chapter is to use both philosophical analysis and empirical evidence to map the way in which claims of need feature in our thinking about distributive justice. The first question is whether a clear line can be drawn between needs and other demands that can be described as interests or preferences, and if so how? Where needs can be identified, what role do they play in decisions over resource allocation? In particular, does justice require that those whose needs are greatest should always have first claim on the resources available, or should resources be distributed more widely and evenly, for example in proportion to relative degrees of need? Might there even be cases in which triage is considered to be a just practice, with priority given to those whose needs can be fulfilled with least expenditure of resources? What difference, if any, does it make if recipients are responsible for having unsatisfied needs as a result of their past behaviour? Does this diminish their claim to be helped, or maybe eliminate it entirely? By reviewing experimental and other work on relevant aspects of justice, the author explores how far philosophical theories of needs-based justice capture the role that needs play in lay thinking about just distribution.

## 1 Introduction

In this chapter, I examine the relationship between empirical research and normative theory through the lens of a particular problem: what justice demands of us in response to claims of individual need. That justice is sometimes, though not always, need-based in this sense is now widely recognised. “To each according to their needs” was first introduced as a principle of distributive justice by Marx and his communist predecessors and successors, and has since passed into the political mainstream as a guiding maxim for the welfare state.<sup>1</sup> What exactly the principle means is much less clear, however, as I will demonstrate in the course of the chapter. Where resources are plentiful, and everyone’s needs can be met in full, it is easy to see what it requires. But in cases of relative scarcity – unfortu-

---

<sup>1</sup> Whether Marx himself saw the maxim as a principle of *justice* remains a contentious topic. For different views, see Wood (1980), Buchanan (1982), Lukes (1985, chapter 4).

nately very often the situation we face in practice – applying it is not straightforward at all. Whose needs should be granted priority? Should we try to meet as many needs as possible, or should we attend first to those who are currently the worst-off? Does it matter if two equally needy people – say two people suffering from the same ailment – get different treatment? And so on.

To answer these and other questions, it is illuminating to examine the evidence about how people at large think such dilemmas should be resolved. There is now a quite considerable body of experimental and other research on what people take justice to require when needs are at issue. But philosophers may still be inclined to doubt whether this evidence is really relevant to their own normative enquiries. Why, they may ask, should a philosophical investigation of needs-based justice take account of what is after all mere opinion, delivered by people who are in no sense moral experts? To this question I offer two replies.<sup>2</sup>

First, presumably, the final aim of normative theorising as carried out by philosophers is to provide practical guidance on matters of moral or political concern. When such a theory is presented, the principles it contains must, therefore, be ones that people might actually come to embrace and act upon. But if so, they must be accessible to the relevant agents, which means that there must at least be a bridge between these principles and the beliefs (about justice and so forth) that people already hold. The theory may hold out the promise of making prevailing beliefs more internally coherent, better grounded in evidence, and so forth, but it cannot dispense with them altogether. So, it is important to find out, at least as a starting point, what these beliefs actually are.

Second, attending to empirical evidence about how non-philosophers think can help philosophers to guard against deficiencies in their own reasoning processes. The latter ought to be more self-reflective than they usually are about the status of the intuitions or “considered judgements” that they deploy in order to justify their conceptual or normative claims. One reason is that (in Western democracies anyway) their social position biases them in favour of certain views and against others: like other university faculties in the humanities, their political convictions are overwhelmingly liberal when measured against the views of the population at large.<sup>3</sup> This means that they will often regard as self-evidently

---

<sup>2</sup> See also Miller (2018), on which I draw here.

<sup>3</sup> For some evidence about this in the case of American academics, see Rothman, Lichter, and Nevitte (2005). Among the general public 18 percent self-identified as liberal and 37 percent as conservative in 1999; for philosophers, the figures were 80 percent liberal and 5 percent conservative. For a study of Canadian professors that did not single out philosophers specifically but

true, and therefore as touchstones for normative reasoning, moral or political judgements that people in the wider society are likely to reject. Another is that philosophers are inevitably tempted to adjust what they take to be their “pre-theoretical” judgements to fit the theoretical positions they have already arrived at independently. To give one example, few philosophers seem willing to grant *desert* the central role that it plays (alongside need) in popular conceptions of distributive justice. A likely explanation is that they have already decided that the concept is problematic, perhaps because they are convinced on metaphysical grounds that individuals cannot be responsible for their decisions and actions in the way that they would need to be for the notion of personal desert to make sense. So, they conclude, a defensible theory of distributive justice must either dispense entirely with the idea of desert or at the very least reinterpret the concept so as to avoid this metaphysical problem. But even supposing that this conclusion is correct, the danger here is one of prematurely discarding intuitions about the practical force of desert claims, which are supposed to form part of the raw data out of which the theory of justice is to be constructed. Observing the role that desert plays in the thinking of people who have not yet been forced to confront the problem of determinism and free will can serve as a valuable corrective to this tendency.

There are of course many reasons to exercise caution when looking at the results of experiments or survey research. We need to be sure that the question the subjects thought they were answering was indeed the question to which the philosopher is seeking an answer. Interpreting empirical evidence in order to support normative conclusions is a potentially hazardous undertaking. But that does not imply that we should not make the attempt.

I begin the chapter by commenting on the relative neglect of needs-based justice at the hands of political philosophers over the last several decades. I then point out that, in contrast, claims of need appear to carry considerable weight when laypersons are asked what a fair distribution of some resource would require. Finally, I consider a number of different ways of formulating the principle of distribution according to need and examine which of these interpretations finds support in popular opinion. I conclude that, regrettably, no single formulation captures what people believe is fair in every case. Needs-based justice, both philosophical reflection and empirical research suggest, is deeply pluralistic in nature.

---

nonetheless identified teaching humanities as a main predictor of holding political views well to the left of the public's, see Nakhaie and Brym (2011).

## 2 Need in Liberal Theories of Distributive Justice

It is quite striking how little attention has been paid to claims of need in the most influential theories of justice to have emerged over the last several decades. This is not to say that needs have been entirely neglected by philosophers. Important conceptual discussions in the 1980s sought to establish that needs were indeed an independent source of normativity, rejecting the idea that needs claims are purely instrumental in nature (always taking the verbal form “A needs X in order to Y”) and so always derived whatever force they had from the final end that the needed item served (see Braybrooke 1987, Thomson 1987, Wiggins 1987, chapter 1). Later authors offered further support to the claim that meeting needs was morally obligatory and a matter of justice (Brock 1998, Miller 1999, chapter 10, Reader 2007). In complete contrast, philosophers who adopted classical liberal or libertarian positions were deeply sceptical that needs as such had any relevance to justice (Minogue 1963, chapter 4, Nozick 1974, chapter 8). It might be charitable or benevolent to help a person in need, but justice was a matter of individual rights, and their corresponding obligations, and so need only became normatively relevant when it could be shown that a person’s needy condition was the result of a prior rights-violation (say, because they had been robbed of their means of subsistence).

Most liberal philosophers, however, chose neither explicitly to endorse nor explicitly to reject need as a criterion of distributive justice. Instead, they argued that there was no reason to pay specific attention to needs, because they could be dealt with through being included under the aegis of some broader concept. Consider, e.g., utilitarian philosophers who advocate using overall welfare, understood either as happiness or as desire satisfaction, as the goal by which proposed policies should be evaluated. Meeting their needs is one important way to increase people’s welfare, but not the only way, and in some cases, needs should carry less weight than strong desires, they argued. Griffin (1986, chapter 3) gives the example of a group of scholars choosing to spend resources on an extension to their library rather than on purchasing exercise equipment for the sake of their health. Since they get more welfare by satisfying their well-informed desire for more books than by meeting their need for bodily health, why should the latter be given precedence when a decision about expenditure is being made? From this perspective, needs drop out of the picture as a relevant criterion of distribution, because they can be subsumed under the broader category of welfare.

John Rawls’ theory of justice is often presented as a corrective to the deficiencies of utilitarianism. But like his utilitarian rivals, Rawls pays no specific attention to needs. In the first full presentation of his theory, what Rawls refers

to as “the precept of need” is given one paragraph in a book of 600 pages (Rawls 1971, pp. 276 f.). The reason for this neglect is fairly clear. According to Rawls, social justice concerns the distribution of “primary goods” – listed as “rights and liberties, opportunities and powers, income and wealth” – and he assesses that distribution by looking at how representative individuals occupying different social positions, like unskilled workers, fare. So, the need claims of particular individuals, such as those with disabilities or special health care requirements, never enter the picture (see further Sen 1980). Rawls speaks of needs only when discussing the transfer branch of government, which is supposed to correct the market distribution of income and wealth by giving resources to those who are worst off economically. In other words, need-based claims for income are subsumed under the general principle of controlling inequalities so as to maximise the living standard of the least advantaged group – the so-called “difference principle” (Rawls 1971, § 12–13). Rawls mentions in passing a different kind of justice that concerns the allocation of goods to particular persons, but at this stage, he simply excludes it from his theory as a potentially misleading distraction (Rawls 1971, pp. 88 f.).

In his later presentation of the theory (Rawls 2001), Rawls tried to respond to the charge that he had overlooked one important dimension of social justice by failing to notice how citizens who had the same share of primary goods might nonetheless have very different individual needs (for this criticism, see especially Sen 1980, 1992, chapter 5). He did so by arguing that access to medical care, specifically, should be regarded as one component of the basic bundle of goods whose size the difference principle aimed to maximise (Rawls 2001, § 51). Each citizen could anticipate that over the course of her lifetime she could expect to require some medical treatment, and so access to health care should be factored into the calculation of her life prospects. Rawls did not, however, have anything more specific to say about justice in health care – for instance about who among the needy had the strongest claims to be treated – nor about needs of other kinds, nor about the position of people with serious disabilities who could not aspire to be “fully co-operating members of society”. Thus, what was almost certainly the most influential theory of social justice to have appeared in the last half-century virtually eliminated need as an independent criterion of distribution.

Another theory of distributive justice that has been influential over the same period is Ronald Dworkin’s “equality of resources” view (Dworkin 1981). This might appear to give more scope to needs than Rawls’ theory by virtue of the fact that it regards personal capacities and incapacities as among the resources that a theory of justice must take into account. Thus, insofar as need can be represented as an internal resource deficiency, we might expect Dworkin to count it

as a feature that may entitle its bearer to receive additional resources by way of compensation. And he does indeed devote some attention both to the issue of people with handicaps and to the issue of health care in Dworkin (2000, especially chapters 2 and 8). However, in order to tackle this problem, he has to introduce a special conceptual device: hypothetical insurance. To explain this through the example of medical need: In order to decide what provision a state should make for health care – how much it should spend and what priorities it should adopt when resources are scarce – we should ask what health care insurance people would buy in advance if they did not know what their own medical needs were likely to be.<sup>4</sup> In reaching a decision, people would be expected to trade off buying different levels of insurance against other ways of using their money. So again, this is a case in which need considerations get subsumed under a wider principle, in this case compensating people for disadvantages that they would have insured against suffering in advance. Need claims are not allowed to have independent force. Dworkin's answer to the question "Is satisfying this particular need a matter of justice?" is "It depends on whether people generally would have chosen to purchase insurance against the chance of having it". The same principle is applied to other misfortunes, such as the chance of becoming unemployed.

Inspired partly by the work of Rawls and Dworkin, but moving beyond them in a more egalitarian direction, a number of philosophers have recently defended the so-called "luck egalitarian" theory of distributive justice (see, e.g., Temkin 1993, Knight 2009, Cohen 2011, part 1, Knight and Stemplowska 2011, Tan 2012). According to this theory, no-one should be worse off than anyone else unless they are responsible for being worse-off, e.g., by developing expensive tastes or gambling away their resources. Conversely, inequalities that can be attributed to brute luck – such as a storm that demolishes my house but not yours – should be compensated for by redistribution from the lucky to the unlucky. At first sight, it looks as though this principle will be sensitive to variations in need: being prone to disease or requiring more calories than average to stay healthy look like exactly the kind of involuntary misfortune that luck egalitarians will seek to rectify via resource transfers. But notice that special needs of this sort are treated no differently from other sources of disadvantage, like having meagre talents or being born into a poor family. Luck egalitarians use an undiscriminating, and often ill-defined, currency of advantage or disadvantage that can incor-

---

<sup>4</sup> Of course, this is likely to vary from one person to the next, depending on how averse they are to particular risks, so Dworkin has to stipulate that what justice requires the state to provide is the level of coverage that most people would choose to buy under these conditions.

porate being needier than others but without giving that condition any special weight. Notice also that a luck egalitarian will distinguish between needs that a person has as a result of her innate bodily features or of accidents that befall her, and needs that she has as a result of lifestyle or other choices for which she is personally responsible, and will mandate that she be compensated only for having special needs in the first category. So, on this view, justice does not require that we should respond to people's needs regardless of how they have arisen.

What explains this reluctance among recent philosophers to take needs seriously as an independent criterion of distributive justice? There is a long-standing concern about whether it is possible to identify needs in a suitably objective way: How does one separate a need from a strongly held desire, for instance? There is also a challenge, pressed especially by followers of Amartya Sen and his theory of capabilities (Sen 1992), that to use need-fulfilment as the currency of justice is implicitly paternalistic, because it overlooks the importance of allowing people to decide for themselves whether they wish to use the resources at their disposal to satisfy their needs, or to do something else with them (Sen 1984; for a more qualified assessment, see Alkire 2002, chapter 5). More important still, however, may be the understandable, but mistaken, tendency of philosophers to search for some single encompassing principle or formula to define distributive justice, such as Dworkin's "equality of resources" or Sen's "equal capabilities". Despite what Marx said, it seems unlikely that justice could be nothing other than a response to unmet need, so if needs are going to count at all under a single-principle definition, it must be through being subsumed under some wider, more abstract, concept such as disadvantage. The cost, however, is to lose the special imperative force that normally attaches to claims of need, as I shall demonstrate below by reference to evidence about public opinion. The moral we should draw here is that it's a mistake to try to reduce justice to any such simple formula. Justice is more like a department store than a specialist boutique.<sup>5</sup> Needs-based justice is an important department, but by no means the whole of the store. Moreover, as we will see later, it is equally problematic to try to reduce needs-based justice itself to a single all-encompassing principle.

---

<sup>5</sup> I have mapped some of the main departments in Miller (2017).

### 3 Needs-Based Justice – Evidence About Public Opinion

As we have seen, philosophers sometimes doubt whether any real distinction can be drawn between people's needs and their desires. But we find that in popular understandings of justice, needs are indeed distinguished from preferences and desires, and given special weight. Here is one survey experiment designed to test whether people's distributive choices vary depending on whether they are confronting differences in need or differences in pleasure or satisfaction (Yaari and Bar-Hillel 1984). Respondents were invited to divide a shipment of grapefruit and avocados between two persons. In one version these individuals were described as being able to derive different amounts of vitamin from the two fruits; in the alternative version they were described as getting different amounts of pleasure from consuming the fruits, as revealed by the price they were willing to pay for them. The numerical values given in the two cases were the same. But the pattern of results was quite different. In the "needs" version, respondents overwhelmingly chose the distribution that gave the two individuals the same amount of vitamin. In the "tastes" version, there was more variety in the responses, but the most popular choice was the utility-maximising outcome, which was quite inequalitarian (one person got twice as much pleasure as the other). What the research shows, then, is first that people recognise a practically relevant difference between needs and tastes, and second that when faced with two individuals whose needs were assumed to be the same, they see justice as requiring the distribution of resources that satisfies those needs equally.

Other studies have explored how the introduction of needs-related information has the effect of shifting people away from efficiency concerns – maximising the satisfaction of preferences – towards solutions that ensure that everyone's basic needs are met. One such study explored how participants made different decisions over the allocation of educational resources depending on whether a basic subject that every student would be expected to need (such as mathematics) or an optional subject (such as theatre) was involved (Matania and Yaniv 2007). However, the shift appears to be partial rather than total, in the sense that although survey respondents tend to prioritise outcomes in which all needs are fulfilled, they are willing to balance this against other factors, such as large efficiency gains (see Konow 2001); as philosophers would put it, they do not attach strict lexical priority to fulfilling needs. As we will see shortly, it also makes a difference to their judgement how the needs have arisen – whether, e.g., as a result of profligate behaviour. Nevertheless, when asked to rate the relative importance they attached to different aspects of social justice – reducing

large inequalities of income, recognising people's merits, and guaranteeing that basic needs are met – a large sample of European respondents gave their strongest endorsement to the third objective (Forsé and Parodi 2009).

The evidence presented thus far confirms that needs feature prominently in popular conceptions of distributive justice, but we would like to know more about the precise role that they play. In particular, what weight are they given when they compete with claims of other kinds, such as claims of desert or of efficiency? And how do people handle cases in which there are insufficient resources available to meet everyone's needs? What are their priorities in these circumstances?

The weight that is given to need claims will be affected by a number of factors. The first, and most obvious, is the nature of the good whose allocation is in question. It is widely recognised that what distributive justice demands depends on the kind of good being distributed – in philosophy this is a view associated with Michael Walzer (1983), and evidence about the various rules people apply to the allocation of resources of different kinds was presented in a classic paper by Foa and Foa (1976). In relation to needs, a simple partition is between goods whose only use is to meet needs – wheelchairs and medicines, for instance – goods that are irrelevant to need – prizes and badges of honour, for instance – and goods that can be used to meet need but are valued beyond that point, such as money, food and housing. It's hardly surprising that subjects should see need as a proper ground of allocation for goods in the first category, since in this case justice and efficiency tend to pull together rather than apart – at first sight, there seems to be no reason to allocate these goods on any ground other than relative need. What is surprising, therefore, is that when potential recipients are described as unequally deserving (as measured for instance by their respective contributions to a connected task), subjects want to give some weight to this factor even in the case of a good such as medicine (Scott and Bornstein 2009). In other words, they seem to think that unequal performance must be rewarded even where the recipient has no practical use for some part of what he is getting as a reward, and someone else is left with unsatisfied needs. Again, we discover that although claims of need weigh heavily when resource distributions are being made or recommended, they are not awarded strict priority over claims of other kinds, even in cases where the good being distributed is needs-specific – such as prescription medicine in the experiment just described.

How this weighing is carried out will depend on the context in which the distributive judgement is being made. "Context" can mean different things here. E.g., one study manipulated the degree to which need claims were regarded as urgent, by comparing distribution in an emergency caused by a flood, with distribution of the same resources under normal conditions (Scott and Bornstein

2009). Perhaps not surprisingly, people in the flood condition gave greater weight to the need principle. Another factor is the relationship that prevails between the parties to the distribution. When recipients are described as having a close personal relationship – one of friendship, say – this increases the likelihood of needs being used to govern the allocation of resources between them (Lamm and Schwinger 1980, Deutsch 1985, Sondak, Neale, and Pinkley 1999). There is a question here, however, about whether in such cases it is *justice* specifically that dictates distribution according to need. An alternative reading is that when people are involved in relationships of solidarity, justice is pushed aside and compassion, generosity, or the wish to preserve social harmony takes its place, which entails responding to need rather than to desert or entitlement. One experiment tried to test for this possibility by prompting one half of a rather small sample of subjects to allocate resources justly between two recipients, one with greater needs than the other, while the other half were not given the justice prompt (Lamm and Schwinger 1983). The justice prompt increased the weight given to need when the recipients were described as superficial acquaintances, but decreased it when the recipients were described as close friends. Here, then, it looks as though asking respondents to focus on justice had the effect of dampening down the generous idea that between friends, need is all that should count when relevant resources have to be distributed. Justice was once described by David Hume as a “cautious, jealous virtue” (Hume 1975, p. 184) and he argued that there were circumstances, including radical changes in human motivation, in which it would no longer be needed, being replaced by “much nobler virtues, and more valuable blessings” (Hume 1978, p. 495). He was wrong to think that claims of need could never be claims of justice, but right to think that justice might sometimes stand in the way of generosity, when the latter takes the form of attending *exclusively* to need at the expense of other factors such as desert and equality.

The importance that people attach to claims of need depends, then, on the context in which they are being asked to make or rule upon a distribution of goods – where contextual variables include the urgency of the situation being described, and the relationship between the parties to the distribution. It also depends on whether potential recipients are seen as being responsible for having the needs in question. In general, personal responsibility, whether it takes the form, e.g., of engaging in behaviour that damages future health, or wasting the resources that might be used to satisfy need by excessive consumption, has the effect of lessening the force of need claims: People asked to award resources will give preference to those who cannot be held responsible for their

needy condition.<sup>6</sup> However, this applies most forcefully in circumstances of scarcity where hard choices have to be made. To the extent that resources are relatively abundant and there are no competing claims, only those of a politically conservative disposition seem to want to punish those responsible for having needs by withholding resources (Skitka and Tetlock 1992). And there is also evidence that in friendship contexts, people may be willing to ignore responsibility issues and focus simply on relative need (Lamm and Schwinger 1980).

## 4 Distribution According to Need – What Does It Mean?

Having briefly sketched the general role that need considerations play in popular understandings of justice, I now want to focus on the question of how, more precisely, a needs-based principle of justice should be defined. When we say “to each according to their needs”, what exactly do we mean? Which distribution of goods, in circumstances of scarcity, would satisfy this principle?<sup>7</sup>

We can begin by noting a point that is fairly obvious once stated, but still capable of being overlooked, namely that there is an important disanalogy between the needs principle just cited and the corresponding principle of desert. When justice requires that resources should be allocated so as to match the respective deserts of the recipients, it is in one way contingent which resources are used for that purpose. We usually assume that the right way to reward differences in productive performance is through inequalities of income, but as far as justice is concerned, we could equally well use gold stars or awards of the Order of Lenin.<sup>8</sup> What matters at the bar of justice is the matching of performance and reward, not the currency in which reward is measured. When need

---

6 For the medical case, see Ubel et. al (2001). For a case involving access to winter fuel, see Schwettmann (2012). See also Skitka and Tetlock (1992) for an analysis that brings together scarcity of resources relative to need, and personal responsibility for need. For an experiment in which personal responsibility appears to have little effect, see Gaertner and Schwettmann (2007).

7 In the absence of scarcity, we can interpret the principle as simply requiring that everyone’s needs should be satisfied. This is doubtless what Marx had in mind when he said that the principle came into its own when “all the springs of co-operative wealth flow more abundantly” and “the narrow horizon of bourgeois right [can] be crossed in its entirety” (Marx 1977, p. 569).

8 The latter may not be the best example, because it appears to have had only one grade (though it was possible for Soviet citizens to be awarded it repeatedly). So, imagine a fine-tuned version in which different grades correspond to different levels of merit.

is the basis of distributive justice, in contrast, the pertinent resources are of course those which can satisfy unmet needs. So, in the case of any given distribution of such resources, we can ask both about the *ex ante* schedule of (unsatisfied) needs to which it responds, and about the *ex post* schedule of (unsatisfied) needs that it produces. It is by no means clear what the focus of our attention should be: on the (absolute or relative) needs people have to begin with, or on the (absolute or relative) needs they are left with after the distribution has taken place?

We can expand on this point by observing that when somebody is in need, there are at least three pertinent questions to ask, setting aside now the issue of how they came to be in a needy condition. The first is how needy they are in absolute terms: how large the gap is between the resources available to them now, and the resources that would raise them to an acceptable level of provision. The second is how needy they are relative to others in the relevant group: are they better or worse off than others in the comparison class? The third is how many resources it would take for their position to be improved, in other words how capable they are of converting resources into diminished levels of need. Looking at how people set priorities when asked what would be the fairest allocation of goods among needy recipients, we find that they pay attention to each of these factors (see Hurley et al. 2017). In particular, they do not always prioritise the person with the greatest needs if it turns out that it would take a lot of resources to improve that person's condition significantly. The practice of triage, as carried out in medical emergencies, finds some resonance in the attitudes of the general public, though less so than with health professionals themselves.<sup>9</sup>

Is there any way of consolidating these potentially conflicting factors into a single principle that might then be used to define need-based justice normatively? Let me review some possible candidates. Consider first the principle of minimising total neediness. Assume that we can assign each person a need score, based on the size of the gap between what she now has and what she would have to have to satisfy her needs completely – the gap could be measured in terms of the calorific intake needed for a healthy diet, or the amount of pain medication that would bring full relief, for instance. The proposal is then that, given a fixed quantity of resources, justice requires that they should be allocated in such a way as to reduce the aggregate need score as far as possible. This would respond both to the depth of recipients' initial need, and to their differ-

---

<sup>9</sup> In the case of organ transplants, for example, medical professionals give greater weight than members of the public to longer-term chances of survival as opposed to the urgency of a patient's need. Non-medics divide fairly evenly on the question whether urgent cases should receive scarce organs even if their prospects are uncertain. See Umgelter et al. (2015).

ential capacities to convert resources into satisfied need. If Alice responds to pain medication more effectively than Bob, then the principle will favour allocating the medicine to her. A critic might argue that minimising total neediness is a principle of efficiency rather than a principle of justice, and therefore immediately ruled out as a candidate for needs-based justice. But this dismissal is too quick. It's plausible to say that unmet need in the presence of resources that could satisfy it is an injustice, and the bigger the gap the greater the injustice; it's also plausible that what we are required to do in the face of injustice is to minimise it. So minimising neediness is at least a *prima facie* candidate in our search.

Nonetheless, it should be rejected on the grounds that it pays no attention to how different people are treated relative to one another. It may skew the distribution of resources too far in favour of those who are easiest to help. It may recommend doing nothing for those who are in greatest need. Even if triage may sometimes be regarded as acceptable, the principle we are now looking at goes beyond this by attaching no special weight to having large unfulfilled needs except insofar as this may provide a bigger opportunity for lowering the overall need score. Moreover, in Alice and Bob type cases, we may also be concerned that the principle rewards Alice for her genetically-determined ability to respond well to paracetamol. Simply aiming to minimise neediness, in short, would involve setting aside several factors that seem important components of need-based justice.

With this in mind, consider a second candidate principle: strict priority for the neediest. Here, justice would require us to allocate resources to those with the highest need scores until they reach parity with the next highest group, then treat the two groups together until the next threshold is reached, and so forth. This principle responds to depth of need, but at the cost of paying no attention at all to capacity to benefit – so that it excludes triage even in cases where the position of those who are worst off can only be improved slightly despite their being assigned large quantities of resources. And although it responds to the inequality between the worst-off group and everyone else by decreasing the gaps between them, it pays no attention to other inequalities in need scores. So, if we think that justice is at least partly comparative in this context – it is concerned about how people fare relative to one another in general – then the strict priority principle will be found wanting.

In response to at least the first of these worries, some philosophers have advocated a weighted priority principle (see, e. g., Crisp 2002). Here, we measure an improvement by multiplying a reduction in someone's need score by a factor that captures how needy they were to begin with. E. g., we might use a simple arithmetic weighting, counting a reduction from 100 to 99 as 100, and a reduction

from 10 to 9 as 10. This is intended to capture the intuition that it is more important to attend to those whose unmet needs are greater than to those whose unmet needs are smaller. Given the resources available, justice on this view requires us to allocate them so as to reduce neediness as far as possible, but with the chosen weighting factor built into that calculation.

It's implausible to believe that when people are asked to choose a fair allocation of necessary goods, they consciously employ such a weighted priority principle. Nevertheless, the principle might be recommended as a way of rationalising the choices they do make, and in some cases, it may well succeed in doing so – we may be able to assign an implicit weighting factor based on people's observed choices. However, it, too, faces some objections. One is that, despite its tilt in favour of the neediest, there are going to be cases in which it advocates helping a large number of less needy people instead. If enough people can have minor headaches relieved at the cost of denying someone a kidney transplant, the principle will advocate doing that.<sup>10</sup> Another problem is that it incorporates no inherent concern for how people are treated relative to one another. Of course, if two people start out with the same need scores and are equally responsive to treatment, then the principle dictates that they should be provided with the same resources. But this is a special case. Where people differ along either of these dimensions, the weighted priority principle provides no guarantee that horizontal equity between them will be preserved. But such comparative concerns seem to play an important role in popular understandings of distributive justice (see Cuadras-Morato, Pinto-Prades, and Abellan-Perpinan 2001).

What does “horizontal equity” mean in the case of people with unequal needs? One interpretation is that their need scores should be equalised as far as possible: if we cannot relieve everyone's pain or hunger completely, we should at least distribute resources so that they end up equally in pain or equally hungry. Cuadras-Morato, Pinto-Prades, and Abellan-Perpinan (2001) refer to this as the “equal loss solution” and they show that it is frequently preferred when people are asked to choose between different ways of allocating health care resources. I offered a qualified defence of this principle in an earlier discussion (Miller 1999, chapter 10). The principle's strength is that it responds to all cases in which one person's needs are more fully satisfied than another's, no matter how high or low their absolute need scores. But it has some corresponding disadvantages. It

---

**10** Crisp responds to this problem by introducing a needs threshold such that those with relatively trivial needs are excluded at the first stage of implementation and only come into consideration if there are surplus resources after the weighted priority principle is applied to those above the threshold. But, as he himself puts it, “where the threshold falls, of course, is the key question any proponent of this view must answer” (Crisp 2002, p. 140).

gives no special weight to improving the absolute position of the very needy. And it counsels against satisfying needs when this can only be done at the expense of increasing inequality between those who have them – so if there are two people needing the same operation and only one can be treated, it may recommend doing nothing. This seems counterintuitive. In my earlier discussion, I tried to mitigate these objections by pointing out that there are indeed cases in which justice demands that we forgo Pareto improvements – in other words, that justice and efficiency are not the same, and they may pull apart in some cases. But where needs are at stake, it seems that a comparative concern with how people are treated relative to one another faces competition from a rival non-comparative concern of justice that those in need should be aided as far as resources allow.

At this point, it might seem that any way of formalising needs-based justice that captures most of what people intuitively believe is going to involve two or more principles being traded off against one another. But before embracing pluralism in that form, I want to consider two attempts to develop combined accounts that give justice ratings by adding together different components according to some formula – in other words this is a bit like scoring an ice-dance competition where contestants get a technical mark and an artistry mark, and these are added together to produce a total mark. The first of these has been proposed by Nicole Hassoun (2009) in the form of what she calls the effectiveness principle. This works as follows: “First, rank the possible policies from best to worst according to how much weighted need they alleviate. Second, rank the possible policies from best to worst according to the number of people they help. Third, for each policy, combine its ranking in terms of how much weighted need it alleviates with its ranking for how many people it helps to yield its final score” (Hassoun 2009, pp. 259f.).

The weighted need component corresponds to what I earlier called a weighted priority principle – it assesses options by how effectively they reduce need overall, but with a weighting in favour of those whose initial need scores are higher. The new element is the proposal to rank policies according to the number of people helped, which is intended to offset the tendency of the weighted priority principle to give too much emphasis to the claims of the neediest.<sup>11</sup> It is meant to open the door to justified cases of triage. But how plausible is the

---

<sup>11</sup> By the same token, however, Hassoun’s effectiveness principle makes matters worse in the kind of case that worries Crisp, where the weighted priority principle still allows a large quantity of relatively minor need claims to outweigh the more serious claims of a few badly-off people, since it adds in a component that gives credit simply for the number of people who are aided.

claim that the justice of an allocation should be conditioned by the sheer number of people whose needs are met?

Empirical studies have found some evidence that those surveyed favour allocations that are inclusive in the sense that each recipient gets *something* even though their claims are in other ways quite different (Pritzlaff-Scheele and Zauchner 2017). One might interpret this as showing a form of respect for persons – no-one is being simply ignored when the distribution of resources is made. Still, it is difficult to understand why sufficient respect is not being shown when everyone's claims are properly *considered* by whoever is performing an allocation, even if the end result is that some people get nothing because whatever claim they might have is justifiably outweighed by the stronger claims of other people. So, one might wonder whether the numbers being aided has the deeper significance that Hassoun's effectiveness principle implies, as opposed merely to being a way of signalling that no-one has been overlooked.

There is a second possibility, however, which emerges when we disambiguate one of Hassoun's formulations of the second half of the effectiveness principle: "institutions should try to help *as many people as possible* meet their needs" (Hassoun 2009, p. 258). The ambiguity is whether this should be read to mean "meet their needs in full". Special importance might be attached to getting people up the point where their needs are fully satisfied – where they have sufficient food, housing space, medical care, and so forth to live a decent life. There is evidence that justice evaluations are not linear as needs are progressively met, but jump sharply upwards when that threshold is crossed (Weiß, Bauer, and Traub 2017). This, then, might justify including a component that captures the number of people whose needs are fully satisfied by an allocation in our conception of needs-based justice.

But on further reflection, is the idea that special weight should be given to getting people up to the threshold where their needs are fully met defensible? Looking at the issue through welfarist spectacles, such a proposal can seem absurd. If, to use the example from Weiß, Bauer, and Traub (2017), we say that for a decent life a household needs 1,000 units of living space, why should we judge an increase from 800 to 1000 units as more significant than an increase from 600 to 800? Normally we would think that providing extra living space counts for more the more cramped you are to begin with. However, justice is not welfarist, so there is at least room to argue that achieving justice in full counts for more than reducing injustice below the threshold when the numerical gain is

the same in each case. But I remain puzzled as to what form the argument here would have to take.<sup>12</sup>

I turn finally to a second composite principle of needs-based justice, proposed in Siebel (2017). This combines a measure of overall need-satisfaction with a second element that measures the comparative degree to which the needs of different people are satisfied. For technical reasons, this second element uses the *proportion* of each person's overall need claim that is met rather than the equal outcome measure discussed above.<sup>13</sup> Incorporating this element helps respond to one of the deficiencies we found in the simple injunction to maximise need-satisfaction, namely that principle's blindness to the way people are treated relative to one another – the fact, e.g., that some may end up much worse off than others simply because they are poor converters of need-satisfying resources. Siebel's combined principle also places a premium on changes that help people at the bottom end of the scale, because doing so will simultaneously promote both overall need-satisfaction and proportionate satisfaction. In this respect, it goes some way in the same direction as a weighted priority principle.

Yet there remain problems with Siebel's proposal. Although it is less vulnerable than the principle of equalising need scores to the charge that it may licence "levelling down", there are still circumstances in which it will recommend this. Helping someone whose unfulfilled needs are already small may reduce overall neediness but increase inequality between needy people, in which case Siebel's combined principle may rule against it, as he concedes. Whether this is a problem depends on whether you think levelling down in the name of fairness is ever justifiable when operating in the domain of needs.

Moreover, the combined principle requires a weighting factor in order to combine its two measures in a single formula. The question is whether that weighting factor is going to be a constant across all contexts in which meeting

---

<sup>12</sup> Suppose, by way of analogy, that I owe one person £200 and another person £400 and I have an indivisible lump sum of £200 to allocate. What would be the argument for paying off the smaller debt in full? I could, of course, say "well, at least I've paid off one of my debts", and that might be satisfying to know, but how could it be what justice requires? My intuition is rather that justice requires reducing the larger debt, or at most is neutral between the two options.

<sup>13</sup> I am not convinced, however, that this is an improvement. According to Siebel's second component, if your needs are two-third fulfilled and so are mine, fairness is entirely satisfied. But what if your needs are considerably greater than mine so that the extent of your unmet need is much bigger in absolute terms? It seems that you may have a fairness complaint against me. Cuadras-Morato, Pinto-Prades, and Abellan-Perpinan (2001) who test support for both the "proportional solution" and the "equal loss solution" find that people's choices vary according to the specific features of the case, but generally tend to favour the latter.

needs is at issue. We might, on the contrary, think that considerations of horizontal fairness are more important in some contexts than others. So, e.g., in cases where we believe triage is justified, we are willing to overlook the unfairness involved in sacrificing the very badly off in order to be able to restore many more people to functioning. If we think that this policy can still be just on balance, then it seems we are adjusting the weighting between the two parts of the formula when dealing with such a case. But if the weighting factor is allowed to vary in this way, it's not clear how the composite principle is going to improve upon straightforward pluralism where we concede openly that need-based justice may involve applying different principles of distribution depending on the context.

## 5 Conclusion

If a philosophical theory of justice aims among other things to systematise widely-shared beliefs about fair distribution, then it must pay considerably more attention to claims of need than recent liberal theory has done. Admittedly, lay people may not be attuned to the distinctions that philosophers wish to draw. E.g., if asked whether responding to need is a matter of justice or of compassion, they are likely to say that it is both at once. But we have surveyed evidence that shows that people treat need claims as special, and attach high importance to fulfilling them wherever possible, so if justice takes precedence over other values in our practical reasoning as philosophers such as Rawls claim,<sup>14</sup> then it must give these claims a central role. Needs-based justice is not the whole of justice, but it is certainly a key department.

When we begin to inquire into the content of needs-based justice, however, we find that it is a complex idea. It is one thing to add “to each according to their needs” to the list of distributive principles that includes “to each according to their rights”, “to each according to their deserts”, and so forth; it is another matter to say exactly what the principle mandates in conditions of scarcity. As we canvassed the evidence from experiments and surveys, we found that subjects responded positively to a number of different factors related to need: how badly-off people are, either absolutely or relative to others; whether available resources are being used effectively to meet needs; whether people with similar

---

<sup>14</sup> “Justice is the first virtue of social institutions, as truth is of systems of thought [...] an injustice is tolerable only when it is necessary to avoid an even greater injustice” (Rawls 1971, pp. 3f.).

needs get treated in the same way; whether people are themselves responsible for being in need; whether people reach the point where their needs are fully met; whether everyone gets something, even if less than others. We looked to see whether there was any way of combining all of these factors into a single principle, and found there was not. Admittedly, some principles proposed by philosophers do a better job than others at capturing the entirety of needs-based justice. E.g., it seems clear that a weighted priority principle more accurately reflects the relative weights that lay people attach to the different factors than does a strict priority principle. But no principle – not even the two-part composites examined at the end of the last section – captures everything that seems to matter.

The question for philosophers, therefore, is whether they are willing to discard some of this evidence in their search for a (relatively simple) theory of needs-based justice. E.g., they might argue that no real significance should attach to the threshold factor – getting people to the point where they are completely free of pain or have exactly the calorific intake judged to be sufficient for a healthy life. Perhaps when people attach high justice ratings to outcomes that meet such conditions, the explanation has to do with *salience* rather than anything deeper than that. This is a question that further research might explore. So, a normative theory of justice can respond to empirical evidence selectively, provided good reasons are offered for setting some of it aside. Even so, it seems unlikely that the theory is going to be as simple in form as those discussed in the second section of the chapter. Needs-based justice turns out to be pluralistic at a fundamental level.

## Acknowledgements

An earlier version of this chapter was presented to the conference on “Need-Based Justice and Distribution Procedures”, DFG Research Group FOR2104, University of Vienna, March 1st to 3rd, 2018. I should like to thank the audience on that occasion for their suggestions, and Malte Meyerhuber for written comments on a previous draft. I am also very grateful to Clare Cai for providing valuable research assistance while the chapter was being written.

## Bibliography

- Alkire, Sabina (2002): *Valuing Freedoms. Sen's Capability Approach and Poverty Reduction*. Oxford: Oxford University Press.
- Braybrooke, David (1987): *Meeting Needs*. Princeton: Princeton University Press.
- Brock, Gillian (ed.) (1998): *Necessary Goods. Our Responsibilities to Meet Others' Needs*. Lanham: Rowman & Littlefield.
- Buchanan, Allen (1982): *Marx and Justice*. Totowa: Rowman & Allanheld.
- Cohen, Gerald (2011): *On the Currency of Egalitarian Justice, and Other Essays in Political Philosophy*. Princeton: Princeton University Press.
- Crisp, Roger (2002): "Treatment According to Need. Justice and the British National Health Service". In: Rhodes, Rosamund; Battin, Pabst and Silvers, Anita (eds.): *Medicine and Social Justice. Essays on the Distribution of Health Care*. Oxford: Oxford University Press, pp. 134–143.
- Cuadras-Morato, Xavier; Pinto-Prades, Jose-Luis, and Abellan-Perpinan, Jose-Maria (2001): "Equity Considerations in Health Care. The Relevance of Claims". In: *Health Economics* 10 (2), pp. 187–205.
- Deutsch, Morton (1985): *Distributive Justice. A Social Psychological Perspective*. New Haven: Yale University Press.
- Dworkin, Ronald (1981): "What Is Equality? Part 2. Equality of Resources". In: *Philosophy and Public Affairs* 10 (4), pp. 283–345.
- Dworkin, Ronald (2000): *Sovereign Virtue. The Theory and Practice of Equality*. Cambridge: Harvard University Press.
- Foa, Edna and Foa, Uriel (1976): "Resource Theory of Social Exchange". In: Thibaut, John, Spence, Janet, and Carson, Robert (eds.): *Contemporary Topics in Social Psychology*. Morristown: General Learning Press, pp. 99–131.
- Forsé, Michel and Parodi, Maxime (2009): "Distributive Justice. An Ordering of Priorities. A Comparative Analysis of European Opinions". In: *International Review of Sociology* 19 (2), pp. 205–225.
- Gaertner, Wulf and Schwettmann, Lars (2007): "Equity, Responsibility and the Cultural Dimension". In: *Economica* 74 (296), pp. 627–649.
- Hassoun, Nicole (2009): "Meeting Needs". In: *Utilitas* 21 (3), pp. 250–275.
- Hume, David (1975): "An Enquiry Concerning the Principles of Morals". In: Hume, David: *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*. Oxford: Clarendon Press, pp. 169–284.
- Hume, David (1978): *A Treatise of Human Nature*. Oxford: Clarendon Press.
- Hurley, Jeremiah; Mentzakis, Emmanouil; Giacomini, Mita; Dejean, Deirdre, and Grignon, Michel (2017): "Non-Market Resource Allocation and the Public's Interpretation of Need. An Empirical Investigation in the Context of Health Care". In: *Social Choice and Welfare* 49 (1), pp. 117–143.
- Knight, Carl (2009): *Luck Egalitarianism. Equality, Responsibility, and Justice*. Edinburgh: Edinburgh University Press.
- Knight, Carl and Stemplowska, Zofia (eds.) (2011): *Responsibility and Distributive Justice*. Oxford: Oxford University Press.
- Konow, James (2001): "Fair and Square. The Four Sides of Distributive Justice". In: *Journal of Economic Behavior and Organization* 46 (2), pp. 137–164.

- Lamm, Helmut and Schwinger, Thomas (1980): "Norms Concerning Distributive Justice. Are Needs Taken into Consideration in Allocation Decisions?". In: *Social Psychology Quarterly* 43 (4), pp. 425–429.
- Lamm, Helmut and Schwinger, Thomas (1983): "Need Consideration in Allocation Decisions. Is It Just?". In: *Journal of Social Psychology* 119 (2), pp. 205–209.
- Lukes, Steven (1985): *Marxism and Morality*. Oxford: Clarendon Press.
- Marx, Karl (1977): *Critique of the Gotha Programme*. In: McLellan, David (ed.): *Karl Marx. Selected Writings*. Oxford: Oxford University Press, pp. 610–616.
- Matania, Eviathar and Yaniv, Ilan (2007): "Resource Priority, Fairness, and Equality-Efficiency Compromises". In: *Social Justice Research* 20 (4), pp. 497–510.
- Miller, David (1999): *Principles of Social Justice*. Cambridge: Harvard University Press.
- Miller, David (2017): "Justice". In: Zalta, Edward (ed.): *The Stanford Encyclopedia of Philosophy*.  
<https://plato.stanford.edu/archives/fall2017/entries/justice/>, retrieved on November 14, 2018.
- Miller, David (2018): "Justice Beyond the Armchair". In: *Contemporary Political Theory* 17 (1), pp. 97–104.
- Minogue, Kenneth (1963): *The Liberal Mind*. London: Methuen.
- Nakhaie, Reza and Brym, Robert (2011): "The Ideological Orientations of Canadian University Professors". In: *The Canadian Journal of Higher Education* 41 (1), pp. 18–33.
- Nozick, Robert (1974): *Anarchy, State, and Utopia*. Oxford: Blackwell.
- Pritzlaff-Scheele, Tanja and Zauchner, Patricia (2017): "Meeting Needs. An Experimental Study on Needs-Based Justice and Inequality". In: *DFG Research Group 2104, Need-Based Justice and Distribution Procedures, Working Paper 2017–17*.
- Rawls, John (1971): *A Theory of Justice*. Cambridge: Harvard University Press.
- Rawls, John (2001): *Justice as Fairness. A Restatement*. Cambridge: Harvard University Press.
- Reader, Soran (2007): *Needs and Moral Necessity*. London: Routledge.
- Rothman, Stanley; Lichter, Robert, and Nevitte, Neil (2005): "Politics and Professional Advancement Among College Faculty". In: *The Forum* 3 (1), pp. 1–16.
- Schwettmann, Lars (2012): "Competing Allocation Principles. Time for Compromise?". In: *Theory and Decision* 73 (3), pp. 357–380.
- Scott, John and Bornstein, Brian (2009): "What's Fair in Foul Weather and Fair? Distributive Justice Across Different Allocation Contexts and Goods". In: *Journal of Politics* 71 (3), pp. 831–846.
- Sen, Amartya (1980): "Equality of What?". In: *The Tanner Lectures on Human Values* 1, pp. 197–220.
- Sen, Amartya (1984): "Goods and People". In: Sen, Amartya: *Resources, Values and Development*. Oxford: Blackwell, pp. 509–532.
- Sen, Amartya (1992): *Inequality Reexamined*. Oxford: Clarendon Press.
- Siebel, Mark (2017): "To Each According to His Needs. Measuring Need-Based Justice". In: *DFG Research Group 2104, Need-Based Justice and Distribution Procedures, Working Paper 2017–14*.
- Skitka, Linda and Tetlock, Philip (1992): "Allocating Scarce Resources. A Contingency Model of Distributive Justice". In: *Journal of Experimental Social Psychology* 28 (6), pp. 491–522.

- Sondak, Harris; Neale, Margaret, and Pinkley, Robin (1999): "Relationship, Contribution and Resource Constraints. Determinants of Distributive Justice in Individual Preferences and Negotiated Agreements". In: *Group Decision and Negotiation* 8 (6), pp. 489–510.
- Tan, Kok-Chor (2012): *Justice, Institutions, and Luck. The Site, Ground and Scope of Equality*. Oxford: Oxford University Press.
- Temkin, Larry (1993): *Inequality*. New York: Oxford University Press.
- Thomson, Garrett (1987): *Needs*. London: Routledge and Kegan Paul.
- Ubel, Peter; Jepson, Christopher; Baron, Jonathan; Mohr, Tara; McMorrow, Stacey, and Asch, David (2001): "Allocation of Transplantable Organs. Do People Want to Punish Patients for Causing Their Illness?". In: *Liver Transplantation* 7 (7), pp. 600–607.
- Umgelter, Katrin; Tobiasch, Moritz; Anetsberger, Aida; Blobner, Manfred; Thorban, Stefan, and Umgelter, Andreas (2015): "Donor Organ Distribution According to Urgency of Need or Outcome Maximization in Liver Transplantation. A Questionnaire Survey Among Patients and Medical Staff". In: *Transplant International* 28 (4), pp. 448–454.
- Walzer, Michael (1983): *Spheres of Justice. A Defence of Pluralism and Equality*. Oxford: Martin Robertson.
- Weiß, Arne Robert; Bauer, Alexander Max, and Traub, Stefan (2017): "Needs as Reference Points. When Marginal Gains to the Poor Do Not Matter". In: *DFG Research Group 2104, Need-Based Justice and Distribution Procedures, Working Paper 2017–13*.
- Wiggins, David (1987): *Needs, Values, Truth. Essays in the Philosophy of Value*. Oxford: Blackwell.
- Wood, Allen (1980): "The Marxian Critique of Justice". In: Cohen, Marshall; Nagel, Thomas, and Scanlon, Thomas (eds.): *Marx, Justice, and History*. Princeton: Princeton University Press, pp. 244–282.
- Yaari, Menahem and Bar-Hillel, Maya (1984): "On Dividing Justly". In: *Social Choice and Welfare* 1, pp. 1–24.