

Embracing Impossible Justice

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Abstract: It is often thought that considerations of practicality speak in favour of accepting the principle that if there is no practical alternative to something then that thing is not unjust. I present an argument which suggests that there are in fact practical costs to accepting such a principle, so that on grounds of practicality we perhaps ought to reject it. That argument does not assume that there are any demands of justice which it is impossible to meet, but only that we are very fallible when it comes to knowing what the possibilities are. I then argue that rejecting that principle and embracing a notion of 'impossible justice' has positive practical benefits in respect of putting us in a position to respond appropriately to really necessary injustices if there are any.

1. Introduction

It is often thought that principles which link normative categories with modal ones are plausible – particularly ones according to which whether something is wrong, obligatory or unjust depends upon whether it is necessary or impossible. Thus, a great many philosophers and non-philosophers accept the principle that *ought* implies *can*, although of course they often disagree about what interpretation to give each of 'ought', 'implies' and 'can' so as to make that principle true. Aside from particular formulations of particular principles, the idea that the conclusions of moral and political philosophy concerning right and wrong, obligation and justice ought to be constrained by considerations of what it is possible for us to do strikes many as plausible, and even strikes some as downright obvious. As well as seeming plausible, such a constraint on moral and political theorising seems to offer a pragmatic boon, for it ensures that our normative reasoning will not deliver conclusions upon which it is generally beyond our power to act, which in turn protects a place for normative theorising in practical deliberation and public policy.

This paper is about the following principle, which, like the *ought* implies *can* principle, links a moral category to facts about possibility:

Justice Practicalism

If there is no practical alternative to something, then it is not unjust.

What does it take for an alternative to be a 'practical' one? I take it that a practical alternative must at least be a genuine possibility for how things might be or might have been. Beyond this, I want to leave it quite open what is added by 'practical' – and if that word adds nothing, then so be it. Defenders of Justice Practicalism should

decide what they mean by it, and my use of the word 'practical' is supposed to be ecumenical. I take it, though, that when most people think of a bare possibility as an 'impractical' one, they mean one or more of the following three things:

(a) Whilst there is a real possibility that X, we don't know how to realise X.

(b) Realising X comes at too great a cost. The relevant costs might be material costs to welfare or resources, or moral costs.

(c) Whilst there is a real possibility that X, X is still extremely unlikely, and so aiming to realise X would be a waste of time or effort given the low objective chance of success.

According to Bernard Williams, in *Shame and Necessity*, the early Greeks (or at least some of them) accepted Justice Practicalism, as we can see from their attitude towards enslavement:

Being captured into slavery was a paradigm of disaster, of which any rational person would complain; and by the same token, they recognised the complaints as indeed complaints, objections made by rational people. Slavery, in most people's eyes, was not just, but necessary. Because it was necessary, it was not, as an institution, seen as unjust either: to say that it was unjust would imply that ideally, at least, it should cease to exist, and few, if any, could see how that might be.¹

And, as Williams points out, commitment to Justice Practicalism, or at least to its spirit, is still with us:

Modern liberalism ... has given itself the task of constructing a framework of social justice to control necessity and chance, in the sense both of mitigating their effects on the individual and of showing that what cannot be mitigated is not unjust.²

The modern liberal thinks that the practical impossibility of mitigating the bad effects of something entails that they are not unjust.³ So, again, a possibility fact – that there are no practical alternatives to someone suffering the bad effects of some state of affairs or action – suffices to determine that a person's or group of people's suffering those effects is not an injustice. Prominent examples of this sort of thinking arise in cases involving disability. We should, it is thought, do all we can to mitigate the social, economic and personal disadvantages which various disabilities would naturally involve, but those disadvantages which are not amenable to mitigation are not *unjustly* suffered in the way disadvantages which could be mitigated (but aren't) are.

To be committed to Justice Practicalism is not to be committed to the view that there is nothing bad about something which is a practical necessity for us. Unless one thinks that injustice is the only bad thing, there is no reason to deny that some not unjust things are extremely bad. So those who are committed to Justice Practicalism need not say, implausibly, that the practical necessities which they refuse to condemn on grounds of justice are thereby perfectly unproblematic. It might even be that

something not unjust is so bad that we are morally obliged to despair of its necessity. But this paper is only concerned with Justice Practicalism.

In what follows, I will present and defend the premises of an argument to the conclusion that we perhaps ought not to employ Justice Practicalism in our moral deliberation or our deliberation about what to do. The conclusion I defend is *not* that Justice Practicalism is *false*.⁴ All I argue here is that whether or not Justice Practicalism is true, employing it in our moral and practical deliberation presents a practical moral hazard and so, if there are no moral hazards just as great associated with rejecting it, and if what we ought to do is determined, in this case at least, by the weight of costs and benefits, we probably ought not to employ Justice Practicalism in much of our practical moral thought and deliberation.

2. Seeing Possibilities and Identifying Injustices

My argument draws out the moral consequences of a ubiquitous *epistemic* shortcoming. The argument then continues, to draw out some bad *practical* consequences of that epistemic shortcoming. A feature of this argument which is interesting, then, is that it is a *pragmatic* argument in favour of *not* applying the sort of principle linking morality to practical possibility which is usually thought to be pragmatically motivated. It therefore addresses many of those who would insist on the application of principles such as Justice Practicalism on their own terms.

2.1 Underestimating the Practical Possibilities

The first premise of the argument is an empirical one:

(P1) We are prone to underestimate the relevant practical possibilities, perhaps especially where realising some of the more radical ones would be costly.

The relevant possibilities will, of course, vary from case to case. The point is simply that when thinking about what could be done, or which states of affairs might somehow be achieved, we are not omniscient, and in particular we typically *underestimate* what could be done or somehow achieved, especially when entertaining some of the possibilities would require us to rethink some basic assumptions or values, or achieving some of them would require an extraordinary effort or sacrifice.

It is true that we are prone to *overestimate* the relevant practical possibilities as well, but this does not undermine (P1): estimating the possibilities is not like measuring out the quantity of flour for a cake, where if one underestimates what is required one cannot also have overestimated it; rather, it is like enumerating the things one has to do today, where one can forget about some things which really do need to be done whilst thinking that other things require doing which could really be done tomorrow instead. We are less than perfect at estimating the relevant practical

possibilities, and we are prone to mistakes of both kinds (thinking that some things are possible which aren't, and failing to think that some things are possible which actually are). But all I need for my argument is the weaker claim that *at least* we are prone to *underestimating* the relevant practical possibilities. The fact that we also overestimate will not matter.

Let me defend this claim a little more.⁵ It might be thought that the danger of overestimating the possibilities calls for the sort of caution which makes acceptance of Justice Practicalism necessary, so that whatever the costs which I highlight, they are outweighed. And it is true that there is a danger in overestimating the possibilities too.

In general, there are several different types of mistakes we can make when our thinking involves estimations of the practical possibilities. There are simple over- or underestimations, as well as mistakes about the value of the outcomes we judge to be possible, and *these* mistakes are ones to which we will be prone whether or not we employ Justice Practicalism. To refuse to employ Justice Practicalism is not to give up on the idea that we should try not to make mistakes about the real possibilities (or the likelihood and practicality of achieving those possibilities) – indeed the argument I am developing in this section *requires* the idea that mistakes about such things are potentially very bad. It is simply to give up a very specific conditional which purports to describe the modal relationship between injustice and practical possibility.

So, to reiterate, we *are* prone to overestimate the possibilities and that *does* cause problems. But the fact that we are prone to overestimation in this domain does not rule out our also being prone to underestimation, for we can miss some real practical possibilities even as we invent non-real ones. And the fact that it is problematic that we overestimate does not amount to an argument in support of our employing Justice Practicalism, because as I have argued the dangers of overestimating the practical possibilities are not best countered by employing that particular principle, and do not arise because of failure to employ it. So the argument I am developing in this section requires neither (i) that we don't often overestimate the possibilities nor (ii) that it is not a problem when we do so.

It also will not be essential to the success of the argument whether or not we are *particularly* prone to underestimate the possibilities when realizing them would be inconvenient or costly, or when even recognising them would require us to adopt rather different beliefs from the ones we already have. Nonetheless, I think that we *are* particularly prone to error in these cases, and it will only strengthen the argument if I am right about this, for reasons which will emerge as the argument unfolds.

It is almost a truism that when it comes to recognising possibilities we will struggle if we lack the relevant background beliefs, especially if we don't simply lack those beliefs but in fact have the contrary beliefs.⁶ Williams's early Greeks, for example, might well be excused for mistakenly thinking it impossible to have a culturally and economically flourishing state which did not involve slavery, for they did not have any conception of the sorts of social, political and economic structures which might make such a society possible. But there are also those things which we

recognise as *bare* possibilities (in the sense that there is a possible world in which things are that way) but do not recognise as *practical* possibilities because achieving them would be too difficult for us or too demanding to be reasonable; and here we are surely prone to overestimating the extent to which it would be unreasonable to expect things which are inconvenient or difficult of ourselves (and of others whom we care about). And there are more subtle cases, in which the perceived impracticality of something blinds us to its bare possibility, as when we convince ourselves (often without much effort, or indeed any effort at all) that we literally *couldn't* make any material difference to world poverty by any of the actions open to one person, when in fact *some* material difference could be achieved by making a substantial sacrifice ourselves. In cases such as this, I think that what is going on is far more nuanced than a simple mistaken belief about whether the money I donate will ever reach somebody who needs it; I think that that mistaken belief is very often the result of a sort of psychological self-defence mechanism against the guilt which would be associated with acknowledging that one could do something which, because it threatens one's way of life, one won't do. So in cases such as this, acknowledging that something would be impractical *if* it were barely possible leads all too easily to falsely believing that it is *not* barely possible.⁷

2.2 From an Epistemic Failing to a Moral One

The second premise of my argument is this:

- (P2) If we apply Justice Practicalism in our moral deliberation, then being prone to underestimate the relevant possibilities means being prone to misclassify some injustices as not unjust.

Recall that Justice Practicalism says that something cannot be unjust if there is no practical alternative to it. So, if we accept Justice Practicalism, then our view of the possibilities had better have consequences for our view of what is unjust: if we accept Justice Practicalism, then we had better not think of something as unjust if, as far as we can see, it is a practical necessity, for to do so would be to embroil ourselves in something very close to a contradiction (namely, between accepting Justice Practicalism, and accepting a claim about the injustice of something in particular which, as far as we can see, would require Justice Practicalism to be false). On the assumption that we are often rational enough not to accept particular claims about injustice which, by our own lights, contradict general claims about injustice which we also accept, (P2) is surely plausible.

One might object that what I have just said does not quite motivate (P2), for although our beliefs about the alternative possibilities *will* tend to guide our beliefs about injustice if we accept Justice Practicalism, it *might* be that, though we are generally epistemically fallible with respect to the alternatives, we actually never fail to acknowledge practical alternatives to actions or states of affairs which are in fact

unjust, so we are always in a position to identify them as injustices. But I see no reason to have so much confidence in our modal imagination when it comes to things which are, as a matter of fact, unjust. It seems to me that other things being equal we are *at least* as likely to underestimate the practical alternatives to something when it is unjust as when it is not unjust.

Indeed, I think this fact might afford us the most humane explanation of some people's attitudes to things which are, as *we* can see, patently unjust. Were people not prone to underestimate the alternatives to unjust states of affairs, it would be hard to explain how and why so many people have genuinely thought that regimes such as apartheid in South Africa, or slavery for Williams' Greeks, are features of the best of all practically possible worlds. Failing to understand that it is practically possible for black South Africans to play a valuable role in political life, for example, is culpable and morally bad in several ways. But we surely ought not to doubt that there have been individuals who really *did* think that there was no such practical possibility. That is not to exculpate their view, but to correctly diagnose their moral and intellectual failings.

2.3 A Preliminary Conclusion

If (P1) and (P2) are true, then:

- (C1) If we apply Justice Practicalism in our moral deliberation, then we are prone to misclassify some injustices as not unjust.

We might, of course, be lucky. It might be that all the mistakes of modal imagination which would, if we accept Justice Practicalism, lead us to misclassify injustices as not unjust are in the past. But I doubt we should be at all confident that we have arrived at a moment without such mistakes. It is easy to see that those in the past have been wrong about the possibilities, especially when the possibilities they failed to see have been actualised. The fact that it is less easy to identify lacunae in our own ideas about what is practically possible might mislead us, but epistemic humility requires us to admit that mistakes we might be making would be hard to identify if we were making them ourselves, and that therefore the fact that we cannot identify them does not reliably indicate that we are not making them. We are probably still making some mistakes which, if we accept Justice Practicalism, mean that we are *currently* prone to misclassifying injustices as not unjust.

This preliminary conclusion is enough in itself, I think, to speak very strongly against employing Justice Practicalism in our moral deliberation. It is a bad thing – epistemically and, more importantly, morally – to make mistakes about what is just and what is unjust.

But we can go further. Not only can we show, as I believe I have just done, that there is a moral problem with accepting Justice Practicalism in so far as our recognition of the reasons there are to resist or change things is concerned; beyond our recognition

of the moral reasons there are, there are issues with our practical ability to respond to injustices which we can bring out by introducing a final premise.

2.4 Responding to Injustices

The final premise posits another empirical psychological fact, but again not one which seems at all controversial:

- (P3) Recognising the injustice of something is an effective way of motivating us to (i) unearth or imagine hitherto unknown relevant possibilities, and (ii) take those possibilities seriously as options for us.

As I have already said, we are not infallible in our judgements about what the practical possibilities are, and we are perhaps especially fallible with respect to possibilities which would be uncomfortable or inconvenient for us. Having said that, a person for whom considerations of justice and injustice carry some weight has some reason to try harder than usual to identify other possibilities and take them seriously as options when faced with what they see as injustice. Once I know that slavery or apartheid is unjust, I have a very good reason to look for pretty much any alternative wherever I can find it, and not to rest content until I have found one. Even things which are inconvenient or undesirable will now, as I see it, deserve serious consideration if they are required in order to serve the demands of justice. There is no tension here with what has already been said and relied upon in the argument to this point. If I don't already know – or believe – that something is unjust, then I might well fail to properly consider all the real practical alternatives, especially those which are inconvenient or onerous. But if I *do* know – or believe – that something is unjust, then that knowledge – or belief – itself is a reason to push my modal imagination harder, taking more care to identify my own blind spots and taking steps to rectify the culpable and non-culpable ignorance which stands in the way of my seeing as many of the options as I might; and it is also a reason to expect more of myself (and others whom I care about) in respect of accepting inconvenience or disadvantages.

2.5 Morally Important Practical Failures From Epistemic Failings

It is not my claim that knowing or believing something to be unjust is the *only* reason or effective motivation for investigating the practical possibilities more carefully than usual. One might have any number of reasons for doing so, all of which might in fact be motivating. No doubt the plain *badness* of something is often sufficient to motivate our search for alternatives: we don't need to think of disease, for example, as *unjust* if we are to seek a cure. But there are all sorts of things which we acknowledge to be *bad*, and our attentive resources are limited; the further acknowledgement that some of the bad things are also unjust is bound to be extra incentive. Indeed, in circumstances of scarce cognitive and material resources, it is surely the case that whether something

bad is, additionally, *unjust* can and should often be the deciding factor with respect to whether it or some other issue deserves our attention and resources.⁸

So, it seems to follow from (C1) and (P3) that

(C2) If we apply Justice Practicalism in our moral deliberation, then we are more prone than we otherwise would be to deprive ourselves not only of insights into injustices, but also of ways of overcoming or mitigating them.

Knowing or believing something to be unjust is one of the strongest reasons – and therefore, if one is properly responsive to reasons, one of the strongest motives – for being serious about trying to find alternatives and hitherto unforeseen possibilities, so it would be a bad thing if we were deprived of that knowledge or belief (in cases where we would be right to think something unjust, at least). And it can be bad to lack a sufficient and prominent motive for doing something good, even if there are other sufficient motives one might have, for one might well not have those other motives, and our doing that good thing is therefore less likely.

The badness of not unearthing or imagining hitherto unknown relevant possibilities and taking those possibilities seriously as options for us is at least in part due to the unfortunate *practical* consequences. Whether or not it is, in itself, bad to have mistaken beliefs which misclassify injustices as not unjust, it is presumably worse not to be in a position to overcome or mitigate injustices than to be in a position to do so. And it is hard to see how we could effectively overcome or mitigate injustices without unearthing or imagining relevant possibilities and taking those possibilities seriously as options for us. Very often the practical ways of overcoming or mitigating injustice will depend upon possibilities which are, as yet, unknown to us. So if accepting Justice Practicalism limits our modal imagination, it limits our capacity to respond practically to real injustices. This ought to concern even those who do not think that merely having mistaken beliefs about justice and injustice is a morally bad thing. Whatever the moral value of avoiding mistaken beliefs about injustice, it surely matters if we deprive ourselves of relatively effective practical means of overcoming injustices.

One might object that beliefs about merely conditional injustice could and do motivate us to check that we have identified all the relevant options just as well as beliefs about injustice *per se* would do. So, for example, believing that it would be unjust to subject someone to a disproportionate burden *if (and only if) there is another option* might lead us to check that there really isn't another option just as much as believing that subjecting them to that burden *is* unjust (where that injustice is not possibility dependent in the relevant sense) would.⁹ Against this objection all I have to say is that it is simply not plausible, given the evidence we seem to have, that beliefs about merely conditional injustice suffice for motivating us *to the same extent* as beliefs about real injustice: we do not typically respond to the mere *epistemic possibility* of injustice, conditional upon our having assessed the available alternatives wrongly, with as much commitment to finding alternatives as we do to the fact of real injustice.

Indeed, we do not generally respond to the mere possibility of something, conditional upon our having miscalculated, with the same vigour as we respond to the thing itself, and this is plausibly because we are typically ill disposed towards accepting that we have erred in our reasoning (and perhaps this is a healthy cognitive trait). At the very least, it would be a rather neurotic person who saw the mere possibility of error as a good reason to check their reasoning, even if the stakes are high. Knowing that an injustice is afoot, though, gives a person a reason to reassess the possibilities not merely on the basis of the possibility of error, but on the basis of a morally serious problem which *in fact* demands a solution if one is available.

3. Doing Without Justice Practicalism, and Embracing Impossible Justice

As I said in the Introduction, the argument of Section 2 does not show, or even purport to show, that Justice Practicalism is *false*. For all I've said, therefore, Justice Practicalism might well be true. Indeed, I take it that we do not know whether Justice Practicalism is true or not. All we really know is that some people find it plausible and others find it implausible.

If Justice Practicalism *is* true, then that is surely a good reason to appeal to it, isn't it? Well, I'm not so sure. Suppose that Justice Practicalism is, in fact, true. Might it not be that with respect to the best sort of moral deliberation we could go in for, *given our epistemic limitations and tendencies*, Justice Practicalism is a truth which we do best to ignore in practice? There are all sorts of epistemically inconvenient truths which would in fact lead us away from important true conclusions rather than towards them, given the cognitive environment as it is (rather than as it ought to be).

Convenient – but strictly false – simplifications are almost indispensable for putting people with limited grasp of all the relevant facts (or with limited technical proficiency) in a position to discover a useful subset of the truths there are to know in a particular domain. Think, for example, about the simplified grammatical rules we use when starting to get to grips with a new language. Such strictly false generalisations get us to the right conclusion about how to say what we mean more often than not, and far more often than trying to conjure with the highly qualified and difficult to remember and apply truths about grammar which we aspire to grasp later on would do. And in employing these epistemically convenient simplifications, we are bound to ignore the complicated and epistemically inconvenient truths which they merely approximate.

If I were better at identifying the practical possibilities, I might be trustworthy with Justice Practicalism when deliberating about what justice requires. But as the language example shows, it is often worth taking the epistemic hit of sometimes getting it wrong if my mistakes are due to my employing a rule which, more often than not, gets the right answer: better to speak sloppy German with some incorrect irregular verb endings than no German at all because I simply don't know where to start with a directive so complicated – but true with respect to every case! – that I can never remember anything about it, or can't recall any vocabulary under the stress of

its contemplation. (Better still, of course, to speak perfect German; but we're talking about the world as it is, with all my linguistic shortcomings, not the ideal world.) It seems reasonable to think that erring on the side of caution by not employing Justice Practicalism in moral deliberation – even if it is true – would not necessarily be any worse than ignoring various other sorts of epistemically inconvenient truths.

To this is might be objected that it is one thing to be prepared to ignore some particular truths about grammar, but quite another ignore a moral truth on the basis of pragmatic considerations. Perhaps the idea is that respecting the truth about morality is more important than respecting the truth about verb endings. I certainly think that it is, but I don't think that that fact tells against what I have argued above. There are lots of truths about morality, and Justice Practicalism (if it is a truth at all) is just one of them. There are also truths about the injustice of particular injustices, and recognising *these* moral truths is at least as important as recognising general moral truths. And it is not guaranteed, unfortunately, that *given our cognitive and psychological limitations* we will be able to respect all of the moral truths at once. If what I have said above is right then respecting truths about particular injustices might be facilitated by failing to respect the truth of Justice Practicalism, and respecting the truth of Justice Practicalism might mean failing to respect truths about particular injustices. No leverage against my suggestion is afforded, then, by the idea that it is especially important not to ignore *moral* truths, for my point is that ignoring some is what (and perhaps all that) allows us to *not* ignore others.¹⁰

An important objection remains, though: if Justice Practicalism is true, then presumably some things which would be unjust were Justice Practicalism not true are, in fact, *not* unjust. And presumably it is only by applying Justice Practicalism that we will come to see that they are in fact not unjust. So failing to apply Justice Practicalism will cause us to err by misclassifying some not unjust things as unjust. Like the error I previously identified (i.e. misclassifying injustices as not unjust), this would amount to both an epistemic and moral error (because it is both a mistake about the facts, and something which matters morally). And it might also be a pragmatically bad thing, because as we know great harms have been done to people and great political, economic and social damage wrought by those in thrall to erroneous conceptions of justice and its extension. So failure to apply Justice Practicalism, if Justice Practicalism is true, might well be worse by all the measures I have invoked than applying it would be, even given our weakness with respect to identifying alternative possibilities.

I take this objection seriously, and I am willing to concede that *if* Justice Practicalism is true then failing to employ it in our moral deliberation is liable to lead us to misclassification errors, which are epistemically and morally bad in themselves. But this is surely no more than an instance of an already familiar and disquieting fact, namely that so long as we don't *know* what the correct moral principles are we cannot reasonably rule out the possibility that in acting on or thinking with some particular ones we are, in fact, doing wrong. The point I want to make in this paper is that so far as the purely moral facts are concerned (one of which is whether Justice Practicalism is true), we are always subject to error if we apply the wrong principles; but there is

an *additional* source of moral error which comes of our applying Justice Practicalism, because it is only if we apply Justice Practicalism that our failures of modal imagination become especially problematic.

The issue here is really one of choice under uncertainty, and choice under uncertainty is surely a practical issue, so my argument still turns on issues of practicality, as promised. I say that it is an issue of choice under uncertainty because, so far as I can see, there are no considerations either in favour of or against Justice Practicalism which count as conclusive, and for all we *know* Justice Practicalism is as likely to be true as to be false. Applying a quite standard decision theory approach to this choice under uncertainty delivers the result that *not* employing a method for determining what is unjust which involves applying Justice Practicalism is, from an expected utility maximising point of view, the thing to do. I explain this in the Appendix.¹¹

If we would do better not to employ Justice Practicalism, a question arises as to whether we would do well to employ its contrary, namely:

Justice Idealism

Some institutions, actions or states of affairs could be just only if things were as they cannot practically be, and something can be unjust even if there is no practical alternative.

Perhaps we can avoid the moral and practical problems with employing Justice Practicalism which I have noted by simply not employing Justice Practicalism, and not employing Justice Idealism either. But it might be that we are most secure in our avoidance of these problems if we do not merely do without Justice Practicalism in our moral deliberation, but *replace* Justice Practicalism with Justice Idealism. If so, we might reasonably adopt Justice Idealism as a working principle, but one from which we withhold belief. This is what we do with the grammatical rules of thumb which I mentioned above, if we know that they are only rules of thumb and that their explicit or implicit universal claims about verb endings (for example) are not strictly fit to be believed.

But we might reasonably think that the most secure way of resisting the temptation of Justice Practicalism is to embrace Justice Idealism as a full-blown belief, perhaps motivated by the sort of argument William James made famous.¹² According to that sort of argument, it would be permissible – and perhaps even rationally required – to believe Justice Idealism (even if we don't have good evidence that it is true) so long as we do not have good evidence that it is false and if believing it has sufficiently good practical and moral consequences.¹³ As I've tried to show, these conditions might be satisfied.

4. Regret and Amends

So far I have said that deciding that something is unjust despite the fact that, as far as we can tell, there are no practical alternatives can be good in so far as it motivates us to see injustices and ways of overcoming them which we would not be motivated to identify if we applied Justice Practicalism (and hence concluded that those things are not unjust). I have emphasised cases in which we are *wrong* to think that there are no practical alternatives and our modal imagination leads us astray.

But I also want to briefly say something about another important aspect of embracing impossible justice. If Justice Idealism is true and there are genuine injustices to which there are no practical alternatives, recognising those injustices might be politically and morally important not because doing so can motivate us to find alternatives (for there are none), but for other practical reasons. I will briefly mention two. They concern the attitudes which recognising such necessary injustices calls for, and the practical measures which are appropriate.

When something not unjust but simply bad happens to someone, it makes perfect sense to regret it in a least one proper sense of 'regret'.¹⁴ That is to say, it is perfectly appropriate to feel bad about what has happened, to recognise what has happened as bad, and to feel some compassion for the person who has been harmed, disadvantaged or otherwise made badly off. Something can obviously be bad even though there is no alternative, so regret is not a moral reaction whose proper object is restricted to things to which there are practical alternatives.

Because regret can quite properly be a reaction to things which are necessary, it can quite properly be a reaction to necessary injustice, as well as necessary badness. Plausibly, regret is in fact *required* as a response to necessary injustice, as it is required as a response to avoidable injustice.¹⁵ Those who are causally responsible for states of affairs which are unjust – whether or not there was ever another option – plausibly ought to feel agent regret for the (inescapable) injustice which they cause in just the same way that the driver in Bernard Williams's example wherein a driver hits and kills a child who runs out into the road, leaving no time to apply the brakes, would quite naturally feel agent regret for the badness they are causally responsible for, even though there is a proper sense in which what happened was not their *fault*.¹⁶ Moreover, regret is an attitude which is apt to modify our attitudes and actions towards other people; when it is properly felt, it is apt to modify our attitudes and actions properly. I will briefly say something about one of the things regret is apt to lead to: making amends.

I do not think that the mere fact that one regrets something can, itself, generate a duty to make amends. Rather, regret can be the psychological route to recognising an existing duty to make amends, or a route to deciding to make amends in light of some facts. (Acknowledgement of those facts, and of their badness or wrongness, is, of course, a crucial element of one's regret itself.) So when I say that regret for necessary injustices is apt to lead us to make amends, I do not mean that in the absence of regret we would not have reason to make amends. I want to suggest that we have reason to make amends just in virtue of being responsible for necessary injustices, in the same way that we have reason to make amends for our avoidable injustices.

Making amends for necessary injustices is, in principle, both possible and desirable. The fact that some people suffer a disadvantage which is tied closely to their race or sex, for example, might be unavoidable, given the facts about their society and its history.¹⁷ But if the injustice is unavoidable, it certainly does not follow that making amends, perhaps by giving those people preferential treatment or weighing their interests more heavily in some contexts, is not going to be an option: making amends does not necessarily require *undoing* the injustice which calls for a response (though it might do, if possible); it might also be *compensatory*.

It matters very much, here, whether or not we are willing to acknowledge that some practically necessary state of affairs or action is *unjust*, and not merely bad. There surely are reasons to compensate people for bad things which happen to them, including things which are or were unavoidable (absolutely or given the practical circumstances). But if someone has suffered an injustice, that is an *extra* reason, over and above the reasons which the badness of their situation entails, to compensate, and we reflect this in what we say: we do not speak of *making amends* for things which are bad but not unjust. This category is reserved for when we act in response to a reason distinct from the mere fact that someone is badly off. If we have a reason to make amends, it is that we are responsible for something *wrong*, and not merely *bad*.

If our resources are insufficient to compensate all those who are badly off in any way, then when deciding whom to bestow compensation upon it seems right to take account of who has been *wronged*, and by whom, and who is 'just' badly off. This is *not* to say that those who are just badly off, without being wronged, deserve no compensation. It is just to say that one plausibly has more reason to spend one's resources on compensating those whom one has wronged and thereby made badly off than on those whose plight is not the result of one's wrongdoing. And this point seems to apply to all kinds of resources, not just material ones: our time, our capacity for disinterested benevolence and our cognitive resources for addressing people's concerns and problems are surely not only finite but fall far short of being sufficient for compensating everyone in all sorts of different ways (remember that I am certainly not only talking about material compensation here, but also special consideration of particular people's interests, for example). So, since being responsible for an injustice is a paradigmatic case of wrongdoing, whether we are willing to acknowledge that someone's plight is not only bad and a result of our action or inaction but also an *injustice* might make all the difference to whether we decide to compensate someone or not. And that is a matter of direct and obvious *practical* concern.

One might try to rescue Justice Practicalism by arguing that justice is about reform, and so justice must aim at what is achievable by reform. But this is, I think, just an illusion of a reason for rejecting Justice Idealism: even according to Justice Idealism, there is presumably a forward-looking requirement to make amends for injustice, so the idea that justice necessarily aims at achievable reform gives no reason to reject Justice Idealism.

Similarly, the idea that politics must begin with people as we know them to be (broadly speaking) will not suffice as a reason to reject Justice Idealism, for at least

two reasons. Firstly, even if it is true, it does not entail that of all the facts about people as we know them to be it is the facts about what they could do to contribute to practical possibilities which are most salient – facts about, for example, what people have done are also facts about them, and such facts might well ground justice claims concerning what they are owed, even if it is not practically possible for them to get what they are owed, and to privilege the facts about what others cannot do over the facts about what someone has done when determining what justice requires might well seem arbitrary. One might say that we should take *both* into account, but that is to go beyond reminding us of the importance of facts about people as we know them to be: it is to assert that facts about the practical possibilities in particular are important, and that, in this context, is to beg the question. Secondly, we can take account of all sorts of facts about what people are like and capable of when determining what the proper *response* to injustice is, thus securing a role for facts about how people are in the politics of justice, without rejecting Justice Idealism, for reasons connected with what I said above about reform.¹⁸

5. Conclusion

I think we ought to take the idea of impossible justice seriously. As I have shown, it requires only a very plausible assumption about the inevitability or near inevitability of our erring significantly with respect to the practical possibilities to get to the conclusion that it would be good to reject Justice Practicalism, and perhaps embrace Justice Idealism, rather than accept Justice Practicalism and reject Justice Idealism.

If I am right, then it is a serious mistake to think that considerations of practicality necessarily speak in favour of limiting our moral thought by making the application of key concepts such as justice depend upon practical possibilities: distinctively practical considerations in fact speak in favour of embracing conceptions of justice (and probably other moral categories) which are not constrained by what the available alternatives are. This runs counter to a common idea, which is that considerations of practicality are bound to restrict the moral principles we ought to accept to those which recommend or demand only what is within our reach. But it seems to me, at least, that it is an impoverished notion of morality which sees it as necessarily tied so closely to the available alternatives anyway. Morality is, indeed, a matter of what we are to do. But it is also a matter of what the world is like in respect of its moral character, independently of our acting in it, and of what we have reason to bemoan or to wish were otherwise. And it is also a matter of what we have reason to regret and make amends for.

An inevitable complaint against what I have argued in this paper is that heeding what I have said threatens to make ethical analysis more abstract and irrelevant, less action-guiding and less useful.¹⁹ As I have just indicated, I do not accept the assumption, upon which this complaint depends, that it is a bad thing for morality to be more abstract and less immediately action guiding. But that is a discussion for elsewhere. What this paper has argued is that heeding what I have said would not

have the supposed effect anyway: as I have argued throughout, overcoming (or mitigating) injustice is a practical endeavour, and if – as I have argued – abandoning Justice Practicalism facilitates our overcoming (or mitigating) injustice then it facilitates a practical endeavour. Facilitating a practical endeavour is not a way of being less action-guiding and less useful, nor more abstract and irrelevant.²⁰

Appendix

*Whether to Apply Justice Practicalism: A Decision Theoretic Approach*²¹

If we *knew* that Justice Practicalism is true, we would have to balance the benefits of not applying it (for it would still remain epistemically inconvenient in the way I have described, in Section 2, above) against the costs of those mistakes which failing to apply Justice Practicalism leads us into. Perhaps that cost-benefit analysis would go one way, perhaps it would go the other; I don't know. In fact, I don't know how to begin allocating precise enough values to the costs and benefits to make any determinate weighting possible, but that is another matter.

What we *can* say, even if we don't have any idea how to weigh the costs and benefits at all precisely, is that if we *don't* know whether or not Justice Practicalism is true, then whether or not to apply it in our moral reasoning is a decision problem under uncertainty, and one which can be solved – in favour of *not* applying Justice Practicalism – by assuming very little.

We want to know the truth about which things are unjust. Call this outcome *K*, for knowledge. But we don't know which way of thinking about injustice is the right one. There are some features plausibly shared by all the plausible options, but there are some, such as Justice Practicalism, which are features of only some plausible conceptions of injustice and not others. For any method, *M*, of determining whether or not something is unjust, there is a version of that method which involves applying Justice Practicalism as a test for whether something is unjust as well as whatever else it involves (call it *M+*) and a version which does not involve applying Justice Practicalism as such a test (call it *M-*).

Now given that we don't know which of *M+* or *M-* is the correct method for determining whether something is unjust, we can address the choice before us in decision theoretic terms by saying that the rational thing to do is to follow *M-* if the value of $Pr(K \mid M-) \times V(K)$ is greater than the value of $Pr(K \mid M+) \times V(K)$, where $Pr(K \mid M)$ is our subjective probability of *K* conditional upon *M* (so, in this case, the likelihood, from our point of view, given the information we have, of getting knowledge if we use *M+* or if we use *M-*), and $V(K)$ is the value of that knowledge.

We can assume that the value of knowledge about injustice is the same whether we follow *M+* or *M-*. At least, we can assume this if what I said in Section 4 is right. You might think that the knowledge of injustice which we achieve by successfully employing *M+* is more valuable, or more likely to be valuable, than the knowledge of

injustice we might achieve by successfully employing M_- , because M_+ will only deliver knowledge of *practically avoidable* injustices: M_+ will rule out something's being unjust if it is not practically avoidable, so whatever conclusions M_+ delivers, the injustice of something practically unavoidable is not going to be one of them; any of its true conclusions, then, will concern only practically avoidable injustices, because *all* its conclusions will concern only those. On the other hand, M_- might well deliver the conclusion that something is unjust, even though it is unavoidable, and so some of the knowledge we achieve by employing M_- might be knowledge of unavoidable injustices. You might doubt that knowledge of *those* – even if there could be such knowledge – is as valuable as knowledge of the avoidable injustices – after all, what use could such knowledge be? If what I said in Section 4 is right, though, our coming to know that something is unjust can make us aware of the fact that we ought to feel and do certain things which would not be appropriate otherwise, or which we would not otherwise have such strong reasons to feel and do. Thus our coming to know of even necessary injustices is presumably as valuable, even in practical ways, as our coming to know of avoidable injustices: both can have implications for what we ought to do.²² So the assumption that $V(K)$ is the same for both knowledge acquired by means of M_+ and by means of M_- seems sound.

If we assume (as I've just argued we should) that $V(K)$ is the same whether we follow M_+ or M_- , then whether the expected utility of M_+ or M_- is greater just depends upon whether $Pr(K \mid M_+) > Pr(K \mid M_-)$ or whether $Pr(K \mid M_-) > Pr(K \mid M_+)$. That is to say, what will make the difference to the expected utility of each option is just the *probability* of achieving knowledge by taking that option: that must be what makes the difference, because the value element of each option's expected utility function is the same.

You might assume that, since we don't know which of M_+ or M_- is the right method, we had better assign .5 probability to each, and that therefore the subjective probability of knowledge conditional upon following each is the same. I think it is reasonable to assign .5 to each, but it does not follow that the probability of knowledge conditional upon each is the same. That is because, as I have been at pains to explain, M_+ is a method which involves something which we are not very good at (whatever else it involves), whilst M_- does not involve *that* thing, at least (whatever else it involves). What we learn from the fact that we are significantly unreliable when it comes to identifying the relevant possibilities is that any method which makes estimating those possibilities crucial to determining the truth will be less likely to be reliable (when carried out by us) than one which doesn't, other things being equal.

The probability of *knowledge* conditional upon following either method depends not only upon (i) the probability of that method being the correct one, but also (ii) the probability of our *success* in applying that method correctly. That is to say, $Pr(K \mid M)$ is given by: $Pr(M \text{ correct}) \times Pr(S_M)$, where S_M is our successfully doing what method M requires.

So, if $Pr(S_{M_-})$ is greater than $Pr(S_{M_+})$, and $Pr(M_+ \text{ correct})$ is no greater than $Pr(M_- \text{ correct})$, then $Pr(K \mid M_-)$ is greater than $Pr(K \mid M_+)$. If, as is indeed the case, the value

of $Pr(K \mid M) \times V(K)$ increases in direct proportion to the increase of $Pr(K \mid M)$, then this means that $[Pr(K \mid M-) \times V(K)] > [Pr(K \mid M+) \times V(K)]$. According to this quite standard decision theoretic approach to choice under uncertainty, then, it is rational to adopt $M-$, i.e. a way of thinking about injustice which does *not* employ Justice Practicalism, rather than $M+$, i.e. one which *does* employ Justice Practicalism.

Note, once again, that this result does not depend upon anything so artificial as the assumption that we can assign precise values: we have derived it just on the assumptions that (i) the value of knowledge is the same whichever method we use to reach it, and that (ii) there is, other things being equal, *some* significant degree to which we perform worse employing $M+$ than employing $M-$, just in virtue of $M+$ requiring us to identify the relevant possibilities and $M-$ not. There will be some $M+$ ways of thinking about injustice which we are, on balance, more likely to successfully apply than some $M-$ ways. But what is of practical interest here is not the fact that far-fetched versions of both $M+$ and $M-$ conceptions of injustice are possible. What matters is that for any plausible conception of injustice and any proposed method for deciding what is unjust which does not include commitment to or application of Justice Practicalism, we can ask whether we ought to add Justice Practicalism to it. And the decision theoretic answer I have argued for is that we ought *not* to, if we don't know whether Justice Practicalism is true, and if what we ought to do here is a matter of what is rational according to standard decision theory.²³

¹ Bernard Williams, *Shame and Necessity* (Berkeley, Cal.: University of California Press, 1993), pp. 116-7.

² *Shame and Necessity*, pp. 128-9.

³ Thus, too, Raimond Gaita: '[justice] partly consists in the creation of institutions which ensure, *to the extent that it is humanly possible*, that our state and civic institutions should not be the cause of such suffering in our fellow citizens that we should be ashamed of ourselves if compassion were fully to reveal it to us' ('Justice beyond Fairness: Mabo & Social Justice', in *A Common Humanity: Thinking About Love and Truth and Justice* (London: Routledge, 2002), p. 84, my emphasis)

⁴ One might go on to argue that Justice Practicalism is false on the basis that the truth of normative principles depends on their aptness for being employed in deliberation. I won't comment on that further move here.

⁵ I thank an anonymous referee for pressing me to do so.

⁶ I say it is *almost* a truism because I do not want to rule out, just by fiat, that someone might intuit that something is possible and thereby revise their beliefs in response to this, where the initial possibility intuition is in some sense *immediate* and not inferred from beliefs one has. I don't know whether such immediate intuition of what is possible is itself possible, but I see no reason to rule it out here, where it makes no great difference to the argument I am pursuing.

⁷ Note that it is not just our judgements about which states of affairs are straightforwardly possible which are prone to mistakes; it is also easy to make mistakes about which states of affairs are *compossible*, and which apparently conflicting claims of justice can be jointly satisfied. Of course, it might be easy to know that things cannot be such that p and *not-p*. But few of the judgments about what the possibilities are which claims of justice require us to make are of such a straightforward sort. More common is the requirement that we try to imagine how two interests might both be satisfied, or how something could be achieved without also bringing about some side-effect. So, even if employing Justice Practicalism would be safe in cases where it is *obvious* whether two or more things are compossible, the class of

obvious cases which arise in real hard cases involving justice claims is surely so small as to make no difference to the general point.

⁸ Gaita is surely right when he says that 'the terribleness of injustice – the *kind* of terribleness that it is – can never entirely be explained by the natural harms attendant on it'. See 'Justice beyond Fairness', pp. 79ff.

⁹ I am grateful to Mary Leng and Richard Yetter Chappell for pressing this objection.

¹⁰ It might be said that even if what I have argued is correct, I advocate *ignoring* a moral truth, whereas the alternative is to simply *not know about* other moral truths (about the injustice of particular injustices), and it is worse to ignore a known or well supported moral truth than simply to not recognise one. But even granted that Justice Practicalism is a well-supported moral truth, I am not at all sure that ignoring a moral truth *for the sake of better appreciating other – arguably more important – moral truths* is worse than simply failing to appreciate a moral truth.

¹¹ Obviously this argument is only as good as the assumption that what we ought to do here is determined by a standard decision theoretic approach. That is not a trivial assumption by any means, but I won't pursue that here.

¹² See William James, 'The Will to Believe' (reprinted in *The Writings of William James: A Comprehensive Edition* (ed. John J. McDermott, Chicago: University of Chicago Press, 1977), pp. 717-35) and 'The Sentiment of Rationality' (*Writings of William James*, pp. 317-45).

¹³ For a very robust criticism of this kind of pragmatist argument, see Allen W. Wood, *Unsettling Obligations: Essays on Reason, Reality and the Ethics of Belief* (Stanford: CSLI Publications, 2002), esp. chapters 1 and 2; and 'The Duty to Believe According to the Evidence', *International Journal of Philosophy of Religion* 63 (2008), pp. 7-24.

¹⁴ For an illuminating recent discussion of regret see R. Jay Wallace, *The View from Here* (Oxford: OUP, 2013).

¹⁵ As Bernard Williams says (see 'Politics and Moral Character', in *Public and Private Morality* (ed. Stuart Hampshire, New York: Cambridge, 1978)), a conception of politics according to which moral or political necessities *cancel* the disagreeable nature of some necessary wrongdoing is deeply unattractive: better to acknowledge one's dirty hands and justify them by appeal to necessity than to think of one's hands as perfectly clean.

¹⁶ See Bernard Williams, 'Moral Luck' in *Moral Luck: Philosophical Papers, 1973-1980* (Cambridge: Cambridge University Press, 1982), pp. 20-39.

¹⁷ Perhaps it is simply not psychologically possible, for example, to undo ingrained attitudes (or 'implicit biases' in the contemporary terminology) which are the product of racist or sexist traditions – or at least it is not possible to undo them *now*, in *this* generation.

¹⁸ Discussions of themes related to this and to other aspects of my argument in this paper to which I am sympathetic can be found in much of G. A. Cohen's work, e.g. Cohen, *If You're an Egalitarian, How Come You're So Rich?* (Cambridge, Mass.: Harvard University Press, 2000), and *Rescuing Justice and Equality* (Cambridge, Mass.: Harvard University Press, 2008), and in David Estlund, 'Human Nature and the Limits (If Any) of Political Philosophy', *Philosophy and Public Affairs* 39:3 (2011) and 'Utopophobia', *Philosophy and Public Affairs* 42:2 (2014). Note that Estlund, in 'Utopophobia', grants for the sake of argument that *inability* might defeat justice claims; his argument concerns just the relevance of *probability* – see 'Utopophobia', p. 117.

¹⁹ An anonymous referee has, indeed, raised this complaint already.

²⁰ I argue that a similar assumption about the practical uselessness of moral obligations which it is impossible for us to satisfy is also too hasty in 'Impossible Obligations Are Not Necessarily Deliberatively Pointless', *Proceedings of the Aristotelian Society* 113 (2013), pp. 381-389.

²¹ See note 11.

²² What I have said elsewhere about the practical applications which knowledge of impossible obligations might have, in 'Impossible Obligations...', seems relevant here, too.

²³ Thanks to audiences at the PEP Society and the Practical Philosophy Group of the University of York, and to Craig French, Tom Stoneham and Johan Gustafsson for discussion. Thanks also to the editor and two referees for this journal for their comments and criticisms.