

Contested Ideals: Understanding Moral Disagreements over Education Policy

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On June 23, 2003, the U.S. Supreme Court ruled that the consideration of race and ethnicity in college and university admissions is constitutional.¹ One might expect that in the aftermath of such a decision, those on either side of the affirmative action issue would consider their dispute settled. But one would be mistaken. The rulings in the two University of Michigan cases have not put to rest the intense moral and political conflict over affirmative action. Indeed, affirmative action opponents' primary strategy is shifting from court challenges to state-level ballot measures.² The affirmative action debate is an example of an enduring moral disagreement, one that arouses profound conflict over fundamental moral ideals such as equality and liberty.

The purpose of this paper is to examine the moral and political roots of education policy disagreements. I will argue that understanding the nature of moral disagreement enriches the discussion of specific policy controversies that have implications for the ethical treatment of students. In order to clarify the terms of the moral disagreement over affirmative action, I examine how the broad political theories of justice that dominate the debate—libertarian political theory and liberal egalitarian political theory—interpret the moral ideals of equality and liberty. I then examine the relationship between moral disagreement and education policy, paying close attention to why understanding and addressing moral disagreement over education policy is important.

Moral Ideals and Political Commitments

Amy Gutmann and Dennis Thompson³ called moral disagreement the most formidable challenge to democracy today; they lamented that we have no adequate way to cope with fundamental value conflicts. Their answer was to conceive of a deliberative democracy that has a central place for moral discussion in political and public life. Part of good deliberation is gaining a nuanced understanding of the nature of the disagreement, the moral ideals involved, and the political commitments invoked.

Specific conceptions and political uses of the moral ideals of equality and liberty characterize the political commitments central to liberal egalitarian and libertarian theories of justice. With the firm acknowledgement that there is substantial complexity and overlap within and between prominent theories of justice along the political spectrum from the left to the right, I have purposefully chosen to focus this examination on the commitments of liberal

egalitarianism and libertarianism. Either explicitly or implicitly, these two theories underlie much practical policy debate in the U.S.A.⁴ In this section, I clarify what the prominent ideals mean within the libertarian and liberal egalitarian theory and how those meanings inform policy views.

Equality

A discussion of equality at a high level of abstraction may be unproblematic regardless of one's underlying theory of justice. All persons are equal under the law. It is at a more practical level that meaningful differences arise, especially in interpretation.⁵

One strand of liberal egalitarian theory has held that equality is *the* fundamental moral ideal.⁶ Ronald Dworkin articulates this perspective well. "Equal concern," he wrote, "is the sovereign virtue of political community—without it government is only tyranny—and when a nation's wealth is very unequally distributed, as the wealth of even very prosperous nations now is, then its equal concern is suspect."⁷ In order for people to be treated with equal concern, they need to have equality of resources. By resources, Dworkin means something akin to opportunities and possibilities for flourishing. For a theory of justice to be taken seriously, Dworkin concluded, each person has to matter equally, to be treated as equal. Of significant note here is that *treatment as equals* does not necessarily imply getting the *same* treatment.

Another strand of liberal egalitarianism follows more closely the work of John Rawls⁸ by emphasizing equality of opportunity. Consequently, treatment as equals requires equality of opportunity. Each person has a right to equal basic liberties; positions and offices are open to all under the principle of fair equality of opportunity; and inequality is permissible as long as any inequalities result in maximizing the position of the worst off, that is, those with the fewest primary goods. For Rawls, persons' talents, abilities, and initial life circumstances are "arbitrary from a moral point of view" and, as such, are unfair bases from which to delineate their life chances.

The concepts of equality and equality of opportunity can be interpreted to mean a variety of quite different and, often, conflicting things. The following examples of think tanks and other popular policy organizations across the political spectrum champion equality of opportunity, but may or may not be interested in Dworkin's ideal of treating people as equals or Rawls's idea of justice as fairness. Consider the "Center for Equality," which is concerned with conducting research that fosters economic equality, that is, the redistribution of wealth and resources, and the "Center for Equal Opportunity," led by Reagan-era appointee Linda Chavez, which opposes bilingual education and affirmative action, programs intended to remedy educational inequalities. Even though there appears to be a consensus about the importance of equality as a fundamental value, the consensus can be misleading. Indeed, concepts may be used for political reasons, with little to no regard for what they mean or what they require of social policy.

Nevertheless, there is often agreement within political theories about the principle of *basic* equality—that persons should be treated as equals and that the state ought to treat persons with equal concern and respect.⁹ This idea

should be unproblematic, yet a conflict comes in defining what *treatment as equals* means. For libertarians, treatment as equals means that we respect a person's property ownership—her or his self as well as her or his material goods. The fact that such a primary principle may result in vast socioeconomic inequality is unproblematic within libertarian political theory, as long as property rights and procedures for the acquisition and transfer of property are fair.

Both strands of liberal egalitarianism are characterized by a concern with *social* justice, as compared with the libertarian concern for individual justice. Whereas social justice is inextricably bound up with equality, individual justice is intertwined with personal autonomy and liberty.

Liberty

Libertarians characterize the moral and political ideal of liberty as “requiring that each person should have the greatest amount of liberty commensurate with the same liberty for all.”¹⁰ The role of the state is to protect human rights that are centered on liberty. John Hospers names three human rights as central to a libertarian theory of justice: the right to life (to protect people from force and coercion, unjust killing), the right to liberty (to protect freedom of speech, press, assembly, ideas), and the right to property (to protect material and intellectual property from theft, fraud, slander, etc.).¹¹ This understanding of liberty excludes certain rights from the right to life category such as the right to receive public aid. Similarly, the right to property is considered a right to acquire goods and resources by fair means, rather than a right to receive goods from others who are better off in order to promote one's own welfare.¹²

Often cited as the source for libertarian political theory, Friedrich von Hayek argued that the libertarian ideal of liberty is characterized by two primary tenets: (1) “equality before the law” as “the only kind of equality conducive to liberty and the only equality which we can secure without destroying liberty” rather than “substantial equality” and (2) “reward according to perceived value” rather than “reward according to merit.”¹³ As a result, inequalities caused by the luck of birth circumstances and talent are seen as just. Justice is seen as an individual principle that ought to take place between individual persons, rather than a social one.

Nozick, long held up as the representative of libertarian political philosophy,¹⁴ put forward a libertarian theory of justice as “entitlement,” characterized by respect for rights of ownership of self and property, which allows persons the freedom to choose how they want to live their lives without intrusion by the state. Why should any goods acquired within the free market be redistributed when one's talents, abilities, work ethic, and possessions are one's own?

Libertarianism holds that vast structural inequalities could be just, that is, could come about in a just manner. There might be bad luck involved in people's starting places in life—even unfairness—but not injustice. As long as people's property rights are respected and the state fosters liberty and is not coercive, then the distribution of goods that results can be considered just.

As a result, a formalist notion of opportunity that calls for equal access (i.e., no official barriers) to education is considered just as well.¹⁵

The libertarian interpretation of liberty does not imply that libertarians do not care whether less advantaged people have their basic needs met; it means that libertarians believe that the state has no duty to provide for those needs. Social welfare is therefore a requirement of charity, not of justice. One contemporary example of this idea in practice is the Bush administration's call for faith-based charities and organizations to lead in the provision of social services for needy people. This is justified through the belief that under a free market system and a minimal state, the least advantaged will have enough opportunities and resources to make sure that their basic needs are met.

Basic Equality as a Shared Ideal

Even though a liberal egalitarian theory of justice considers equality of income or resources to be a prerequisite for treating people as equals and a libertarian theory of justice deems the right to one's own work, effort, and property as a requirement for treating people as equals, both theories invoke the ideal of basic equality. Will Kymlicka pointed out that, traditionally, theorists have believed that there is a continuum of political theories of justice from the left to the right, and that each of these appeals to a different ultimate foundational value.¹⁶ The theories, therefore, have been seen as incompatible and their differences as incapable of resolution. He followed Dworkin in saying that a regard for *basic equality* (characterized not by an equal distribution of income and wealth, but by the more abstract idea of treating people as equals) is what should be viewed as the *ultimate* foundational value held by political theories from the left to the right. Kymlicka's point is this: "A theory is egalitarian in this sense if it accepts that the interests of each member of the community matter, and matter equally. . . . This more basic notion of equality is found in Nozick's libertarianism as much as Marx's communism."¹⁷

This is a key point. The ideal of basic equality holds an important place in both liberal egalitarian and libertarian political theory. Some educators, researchers, and other policy actors may be clear about how they interpret and prioritize the moral and political ideals that guide their policy positions. Nevertheless, the ideals and their place in the conceptual schemes that drive positions are often implicit, which makes it difficult to make informed choices about policy prescriptions. In order to make the most knowledgeable, coherent, and consistent choices, policy actors need to be clear about their moral ideals and the moral ideals within opposing views. There is, of course, no guarantee that a more profound understanding of one's own views as well as the views of one's opponents will lead one to change one's positions on policy issues. Many factors other than rational deliberation and argument make up conceptual schemes and influence policy views. What is important to take away from the preceding discussion of the moral ideals of equality and liberty and how they function to shape libertarian and liberal egalitarian theories of justice is that, regardless of the motivations, there is at least some

agreement over basic ideals. The moral disagreements over policy stem from a combination of contrasting prioritization, interpretation, and application of the salient principles. Within libertarianism, basic equality is perceived as necessary for enhancing liberty. As a result of the different ideas of what liberty and equality involve, justice for libertarians may require laws and policies that conflict with what justice requires for liberal egalitarians. But there is hope to be found. Because there are important similarities in basic moral ideals, deeper understanding of the ideals and how they affect policy controversies may move us toward a theory of justice that can be more widely embraced.

Why Understanding Moral Disagreement Matters for Education Policy

It is often difficult to ascertain what morality and justice require. This is especially true in issues of education policy. How do we make sense of competing views on policy issues that carry vast significance for students? Is it possible that the conflicting sides can each be right? What does that mean for education policy decisions? Typically, there will be some fallout for making morally controversial decisions, perhaps even some type of moral wrongdoing. Regardless of this, moral disagreement serves to move people—and society—forward. One need only think of the Supreme Court decisions in *Brown v. Board of Education* and *Roe v. Wade* to understand how moral disagreements can serve as catalysts for social change. This is exciting. Moral disagreement can be positive, as long as we are willing to work to understand reasonable opposing views, with mutual respect. A deeper understanding of contested moral ideals and interpretations will illuminate the theory of justice that underlies the policy.

I now consider three prominent objections to the idea that understanding moral disagreement can do any work in addressing difficult policy controversies: the appeal to self-interest, the salience of power and politics, and the assertion of impossibility.

The Self-Interest Objection

The gist of this objection is as follows: why does understanding moral disagreement matter if in the end human behavior (especially in political matters) is based primarily on self-interest?¹⁸ The point here is that if, all things considered, political choices are made so as to bring about preferred personal outcomes, no amount of increased understanding of one's own and others' moral ideals and theories of justice will matter in practice.

The self-interest explanation for human action stems from Thomas Hobbes's idea that conflict was a defining feature of society.¹⁹ Conflicts arise because of people's self-interested nature. Consequently, there is a prominent view that policy-making beliefs and behavior may be based on (a narrow view of) self-interest, a view that is indicative of what Jane Mansbridge calls the "adversary paradigm" of democracy, but this explanation alone cannot account for how education policy decisions are made.²⁰ The narrow view of

self-interest holds that rational actors are motivated to do what will benefit them personally, regardless of the consequences for others. Such a narrow view discounts the relational nature of people's moral understandings and actions.²¹ We need a more complex view that considers other prominent motivating factors such as moral values, obligation, love, justice, meanness, relationship, and partisanship.²² This is not to say that self-interest is not an important factor, or that people always care about the welfare of others or the public good. Rather, the way that policy decisions are made is more likely to include some form of self-interest *as well as* other factors based on people's moral values and relationships. Of course, these can be seen as self-interest still, but the notion of self-interest then becomes much broader.

Studies of human behavior reveal motivating factors including the broader idea of self-interest and less putatively "rational" ones such as love and meanness. David Sears and Carolyn Funk's survey data showed that on certain issues, self-interest is a less powerful motivator than political principles.²³ This explains how, for example, a parent might oppose ability tracking in schools even though such tracking practices would allow her child to be advantaged by being placed in an honors track. Similarly, other theories include Robert Frank's idea for a "commitment model" of action, within which actors may act in a *prima facie* irrational way because of emotional dispositions and moral commitments.²⁴ And, Margaret Urban Walker's feminist perspective emphasized the collaborative nature of morality, such that moral understandings reflect persons' identities and relationships as well as their own individual interests. These alternative explanations connect with self-interest (rather than refuting it).²⁵

The appeal to self-interest as *the* motivating factor for human action is incomplete. It does not describe the whole of political action on moral issues. Politicians and policy makers do not only do whatever they need to do just to gain power or political advantage or get elected. Because of the way the U.S. political system works, such narrowly self-interested action surely occurs some of the time. But concerning the nature of moral disagreement, there are times when it is unclear whose interests which outcome would serve. Fostering greater understanding of the moral ideals and political commitments embedded in such disagreements pushes us beyond narrow self-interest claims.

The Power and Politics Objection

Expanding upon the narrow self-interest objection, the power and politics objection is based on the idea that power and politics alone drive the invocation, interpretation, and use of moral ideals in policy processes. Among other reasons, this objection may stem from the idea that policy processes are more political than rational²⁶ or from an understanding of the policy-making process as a "political spectacle" that is less about democracy and moral ideals and more about gaining political advantage and power.²⁷ It may also stem from a cynical view of political processes. The general idea here is that moral disagreements over education policy and the concepts and ideals involved can never be taken at face value, especially when race and class are

at issue. Powerful forces strategically invoke certain moral ideals in order to further their political agendas, with little regard for issues of justice or for the least advantaged persons. For example, the Center for Equal Opportunity has co-opted the language of civil rights to argue against race-conscious education policies, the very policies developed during the Civil Rights Movement to further civil rights, diversity, and equality. The use of the phrase “equal opportunity” is strategic; it allows the Center to position its work on the moral high ground. No amount of understanding of the nature of moral disagreement can mitigate the strategic political maneuvering surrounding controversial policies, or so the objection goes.

Although issues of power certainly lurk beneath the surface of moral-political debates such as the ones discussed in this paper and it is fascinating to examine how power and politics affect the language and concepts used by policy actors, it would be unproductive to respond by merely throwing up one’s hands and saying that the ideal of equality is sometimes invoked for purely strategic political purposes rather than for any real concern for equality. It would be far more constructive to try to understand how each side conceptualizes equality and try to capitalize on what common ground there is. People may support whatever moral ideals they believe will keep them in power or give them political advantage, but once a moral ideal like equality is used, careful analysis may illuminate the political theories underlying political positions as well as help uncover deeper reasons for its use within particular political theories of justice. Consider that the Bush administration’s *Amicus Curiae* brief to the Supreme Court in *Grutter v. Bollinger* cited diversity as a desirable characteristic of a strong democratic state, yet urged the Court to strike down affirmative action in higher education admissions. We could attribute this support of diversity to disingenuous use of the concept of diversity in order to appear sympathetic to voters of color. That is certainly one viable interpretation. However, I argue that it is important to go further, to endeavor to understand the seeming agreement between the Right and the Left about diversity in this case, in order to make sense of the subsequent disagreement over affirmative action policy. At the very least, clarity of meaning and interpretation can serve to highlight the importance of moral ideals like equality and diversity, and delineate what they require of public policy.

The Impossibility Objection

A third objection to the importance of understanding the principles, ideals, and theories that drive moral disagreement is the idea that a number of moral disagreements are, simply stated, impossible to resolve. That is, each disputing side may be right in some important way, or any decision or outcome would lead to some moral wrongdoing, or opposing parties will just never be able to agree. So, what good does it do to try to understand such disagreements, if there is no hope for satisfactory resolution on the horizon?

This is a very sobering objection, especially because there seem to be myriad examples of moral conflicts that are impossible in some sense. Consider the abortion and euthanasia debates, the conflict between creationism and evolution, competing claims about the state’s responsibility to poor

people or undocumented workers; the list could go on. Should we, then, make no final judgments? Where would that get us? How would we address practical issues of education policy that affect the lives of people and educational institutions? Indeed, there may be no one morally best answer in such moral disagreements over policy. That may yet mean, however, that some policy decisions are better than others.²⁸ And, in some cases, there indeed may be a morally best decision.

The impossibility objection can lead to three related conclusions: moral relativism, inescapable wrongdoing, and irreconcilable worldviews. This strand of argument for moral relativism goes like this: when faced with a moral disagreement that seems irreconcilable, theoretical and practical considerations will lead to moral relativism. That is, if disputing parties cannot reach mutually acceptable resolution, then they must accept that one particular answer may be correct for one side, whereas a different answer may be correct for the other side. If the sides cannot agree, then they cannot judge each other either.

Believing it to be an inevitable response to a society rife with difficult moral disagreements, David Wong characterized relativism as a “common response to the deepest conflict we face in our ethical lives.”²⁹ Within this view, the opposing sides in such conflicts each may be right; or perhaps their views are not as inconsistent as they first appeared. On the other side, Nicholas Sturgeon argued that although moral relativism is a possible response to moral disagreement, it does not make sense.³⁰ According to the anti-relativist position, opposing views can be understandable and even right about subsidiary points, but both cannot be morally *right* on the whole.

I do not aim to solve the issue of objective versus subjective truth herein. Nevertheless, the discussion about relativism is instructive. Does the existence of difficult—even intractable—moral disagreement necessarily point us toward relativism? Robert George made a cogent point: “To say that a moral question is difficult . . . is in no way to suggest that it admits of no right answer.”³¹ An illuminating example in support of this conclusion is the U.S. Supreme Court’s separate but equal doctrine that held that racial segregation in the U.S.A. was legally permissible. The moral disagreement surrounding the issue of legal racial segregation adjudicated in *Brown v. Board of Education* seemed irreconcilable, with each disputing side certain of the moral rectitude of its position. In hindsight, I believe there was *one* morally correct answer: racial segregation because one race is deemed inferior to another, is morally wrong, regardless of whether or not the separate facilities are equal. This is not to say that widespread social agreement about the moral wrongness of racial segregation in theory has resulted in integrated schools and communities in practice. Indeed, there remain those who champion racial segregation. But that view holds significantly less weight in the 21st century, and American society is working to catch up to the ideal of integration highlighted in *Brown* (1954) and the ideal of diversity more recently put forward in *Grutter* (2003). As George went on to say: “Even reasonable disagreement does not indicate an absence of objective truth.”³²

But even if there is a morally best solution, does that mean that no moral wrongdoing will occur? Some argue that in difficult issues of moral dis-

agreement, regardless of the resolution, moral wrongdoing may occur more often than expected.³³ Take the educational practice of ability tracking, for example. In an effort to provide properly challenging curricula and educational experiences for high achieving students, students are often tracked into classes based on their scores on standardized tests. Considerable research has shown this to be a practice that, even though it may indeed benefit those students placed in the highest tracks, invariably harms the students placed in the lowest tracks.³⁴ This type of outcome, argues Christopher Gowans, may result in inescapable moral wrongdoing and even moral tragedy. If a moral harm occurs as a result of doing something good, there still needs to be moral responsibility for the harm or wrongdoing. Going back to the example of affirmative action, is it a moral wrong to consider race and ethnicity in college and university admissions decisions? This is a complex question that I have taken up in significant detail elsewhere.³⁵ Although the affirmative action debate is a significant moral disagreement, there is a satisfactory resolution that serves to minimize moral harm. Sacrifices will undoubtedly need to be made by each disputing side, but there is no moral tragedy in those sacrifices. In *Grutter*, the Supreme Court ruled that using race as one qualifying factor among many in college and university admissions serves the interests of individual students, individual institutional missions, and the larger public good. A diverse student body is not only beneficial for all students, but also for the broader leadership interests of American society. The idea that some moral wrongdoing *may* occur in disputes such as the ones over affirmative action or ability tracking should not cause us to view them as impossible. Severe moral wrongdoing, or moral tragedy, in these types of case is not necessarily inescapable.

The final argument for the impossibility of resolving serious moral disagreements is based on irreconcilable worldviews. It centers on George Lakoff's argument that impossible conflicts underscore that the major political division within everyday political discourse in the U.S.A.—between those he calls liberals and those he calls conservatives (in the popular politics sense rather than the political philosophy sense)—is at bottom a moral one, based on core personal and family values.³⁶ Lakoff posited that the main ideals are strictness (on the right) and nurturance (on the left), that these values are fundamentally opposed, and that all social and political debates reflect that one major, deep difference. An important consequence is that many moral differences between the two groups may be irreconcilable.

As I have attempted to illustrate, there are important basic commonalities between, and values shared by, those on the Left and those on the Right. Lakoff (dis)missed these. Through discourse analysis, he highlighted the similarity of the metaphors used for moral issues, but did not consider that those similar metaphors might have their roots in certain shared moral ideals. As such, Lakoff is too quick to point out only the moral differences that lead to divergent worldviews and irresolvable policy disputes.

Moral disagreements may get reconciled in different ways: moral argumentation (deliberative argument and discussion akin to Gutmann and Thompson's ideas); empirical discoveries, for example, scientific discoveries about fetuses or second language acquisition; educational, cultural, and exper-

riential influences such as when a student leaves home believing that affirmative action is wrong, but then in college is exposed to diversity, etc., and changes her view.³⁷ The existence of difficult, intractable moral disagreements need not imply that disputants have divergent worldviews that *cannot* be overcome.

Implications for Education Policy

I have made a case for the importance of understanding the connection between moral disagreement and education policy. I have attempted to present a new way (appeal to moral disagreement) of examining an old problem (education policy controversies). Because there are so many controversial education policy issues in need of deeper theoretical understanding, greater attention to moral disagreement is in order. Education policy processes are sometimes viewed as rational endeavors, with evidence weighed on each side and then a decision made. More often than not, underneath debates over complex education policy issues, like affirmative action, lie moral disagreements and fears of moral wrongdoing to one side or the other.

In the case of affirmative action policy, the source of disagreement is less about opposing ultimate moral values held by the disputants, and more the combination of a difference over the applicability of a commonly held principle requiring equality of educational opportunity and over the priority given to another shared moral principle requiring the protection of individual liberty. Beginning in the 1960s, the federal government's civil rights programs reflected a liberal egalitarian perspective on addressing discrimination and inequality. The 1990s brought a significant backlash against affirmative action, which was eliminated in several states either by ballot measure or court ruling. Consider the case of affirmative action in the state of California. Led by Connerly in 1995, the Regents of the University of California voted to bar the consideration of race and ethnicity in admissions decisions. During the 1996 elections, voters passed Proposition 209, an amendment to California's constitution that abolished all preferences based on race, ethnicity, and sex. The impact on California's college student population was felt almost immediately. In fall 1998, the most prestigious University of California campus, Berkeley, reported a 52% decrease in the number of African American and Latino first-year students for the first class admitted without affirmative action.³⁸ The challenges against affirmative action had the effect of limiting higher education opportunities for students of color. Recent figures show that the percentage of Latino students in Berkeley's first-year class has fallen from 17% to 11% and the percentage of African American students has fallen from 7% to 4%.³⁹

The debates surrounding affirmative action policy in higher education admissions have both a moral and political tenor. The enduring disagreement over affirmative action underscores the importance of examining moral disagreements over policy issues that have significant ramifications for how students are treated by the educational system and what educational opportunities they can enjoy. If competent people disagree so profoundly,

there must be something each can learn from the other and all can learn from the conflict.⁴⁰ In this way, moral tragedies stemming from simplistic, narrowly self-interested, or poorly informed public policy decisions will be less likely to occur.

If we understand the roots of moral disagreements, then we may be able to place the students who are most affected by policy decisions back at the center of the conversation, rather than placing them at the periphery while political debate takes center stage. This approach highlights the need for understanding and stressing common moral values, relationships, and ideals so as to render policy debates and decisions more thoughtful and complete.

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Notes

- ¹See *Gratz v. Bollinger*, 123 S.Ct. 2411 (2003) and *Grutter v. Bollinger*, 123 S.Ct. 2325 (2003).
- ²Ward Connerly, the University of California regent who organized anti-affirmative action initiatives in California and Washington states, has begun a campaign for a voter-approved amendment to Michigan's state constitution that would prohibit affirmative action in higher education admissions (see Peter Schmidt, "Foes of Affirmative Action in Michigan Plan to Take Their Battle to the Ballot," *The Chronicle of Higher Education*, July 9, 2003).
- ³Amy Gutmann and Dennis Thompson, *Democracy and Disagreement: Why Moral Conflict Cannot Be Avoided in Politics, and What Should Be Done about It* (Cambridge, MA: The Belknap Press, 1996).
- ⁴In addition to affirmative action, another salient current example is the debate over social welfare reform. The arguments for social welfare programs and public aid for the needy have a marked egalitarian cast (see Lori Holyfield, *Moving up and Out: Poverty, Education, and the Single Parent Family*. Philadelphia, PA: Temple University Press, 2002). By contrast, the arguments against social welfare programs have a significant libertarian flavor (see Charles Murray, *Losing Ground: American Social Policy, 1950–1980*. New York: Basic Books, 1984).
- ⁵Michel Rosenfeld, *Affirmative Action and Justice: A Philosophical and Constitutional Inquiry* (New Haven, CT: Yale University Press, 1991).
- ⁶Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000). Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Clarendon Press, 1992).
- ⁷Dworkin, *Sovereign Virtue*, 1.
- ⁸John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, MA: The Belknap Press, 2001); *Political Liberalism* (New York: Columbia University Press, 1993); *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).
- ⁹Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977).
- ¹⁰James P. Sterba, *Justice: Alternative Political Perspectives*, 2nd ed. (Belmont, CA: Wadsworth, 1992), 5.
- ¹¹John Hospers, "What Libertarianism Is," in *The Libertarian Alternative*, ed. Tibor Machan (New York: Nelson-Hall Inc., 1974).
- ¹²These are circumscribed by Nozick's three principles guiding initial acquisition, voluntary transfer, and rectification.
- ¹³Friedrich A. von Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), 85.

- ¹⁴Nozick is widely cited as such, despite the complexity of his ideas to be found in *Philosophical Explanations* (Cambridge, MA: Belknap, 1976) for example.
- ¹⁵Kenneth R. Howe, *Understanding Equal Educational Opportunity: Social Justice, Democracy, and Schooling* (New York: Teachers College Press, 1997).
- ¹⁶Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Clarendon Press, 1992).
- ¹⁷*Ibid.*, 4.
- ¹⁸See Gutmann and Thompson, *Democracy and Disagreement*, 19–21 for a particularly helpful discussion of the role of self-interest in motivating political action.
- ¹⁹Thomas Hobbes, *Leviathan*, ed. Edwin Curley (Indianapolis: Hackett Publishing Co., 1691/1994).
- ²⁰Jane J. Mansbridge, "The Rise and Fall of Self-Interest in the Explanation of Political Life," in *Beyond Self-Interest*, ed. Jane J. Mansbridge, 3–22 (Chicago: University of Chicago Press, 1990), 10.
- ²¹Nel Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (Berkeley, CA: University of California Press, 1984); Margaret Urban Walker, *Moral Understandings: A Feminist Study in Ethics* (New York: Routledge, 1997).
- ²²Mansbridge, "The Rise and Fall of Self-Interest in the Explanation of Political Life."
- ²³David O. Sears and Carolyn L. Funk, "Self-Interest in American's Political Opinions," in *Beyond Self-Interest*, ed. Jane J. Mansbridge (Chicago: University of Chicago Press, 1990), 147–70.
- ²⁴Robert Frank, "A Theory of Moral Sentiments," in *Beyond Self-Interest*, ed. Jane Mansbridge, 71–96 (Chicago: University of Chicago Press, 1990), 80.
- ²⁵Walker, *Moral Understandings*.
- ²⁶Deborah Stone, *Policy Paradox: The Art of Political Decision Making* (New York: W. W. Norton, 2002).
- ²⁷Murray Edelman, *Constructing the Political Spectacle* (Chicago: The University of Chicago Press, 1988); Mary Lee Smith, Patricia F. Jarvis, Walter Heinecke, Linda Miller-Kahn, and Audrey J. Noble, *Political Spectacle and the Fate of American Schools* (New York: Routledge, 2004).
- ²⁸Christopher W. Gowans, *Moral Dilemmas* (New York: Oxford University Press, 1987).
- ²⁹David Wong, "Relativism," in *A Companion to Ethics*, ed. Peter Singer (Oxford: Basil Blackwell, 1991), 442.
- ³⁰Nicholas L. Sturgeon, "Moral Disagreement and Moral Relativism," *Social Philosophy and Policy* 11, no. 1 (1994): 80–115.
- ³¹Robert P. George, "Law, Democracy, and Moral Disagreement," in *Deliberative Politics*, ed. Stephen Macedo, 184–97 (New York: Oxford University Press, 1999), 186.
- ³²*Ibid.*
- ³³Christopher W. Gowans, *Innocence Lost: An Examination of Inescapable Wrongdoing* (New York: Oxford University Press, 1994).
- ³⁴Samuel R. Lucas, *Tracking Inequality: Stratification, and Mobility in American High Schools* (New York: Teachers College Press, 1999); Jeannie Oakes, *Keeping Track: How Schools Structure Inequality* (New Haven, CT: Yale University Press, 1986); Amy Stuart Wells and Irene Serna, "The Politics of Culture: Understanding Local Political Resistance to Detracking in Racially Mixed Schools," *Harvard Educational Review* 66, no. 1 (1996): 93–118.
- ³⁵Michele S. Moses, "Affirmative Action and the Creation of More Favorable Contexts of Choice," *American Educational Research Journal* 38, no. 1 (2001): 3–36; *Embracing Race: Why We Need Race-Conscious Education Policy* (New York: Teachers College Press, 2002).
- ³⁶George Lakoff, *Moral Politics: What Conservatives Know That Liberals Don't*. 2nd ed. (Chicago: University of Chicago Press, 2002).
- ³⁷Mitchell Silver, "Irreconcilable Moral Disagreement," in *Defending Diversity: Contemporary Philosophical Perspectives on Pluralism and Multiculturalism*, ed. Lawrence Foster and Patricia Herzog, 39–58 (Amherst, MA: University of Massachusetts, 1994).
- ³⁸Patrick Healy, "Berkeley Struggles to Stay Diverse in Post-Affirmative Action Era," *The Chronicle of Higher Education*, May 29, 1998, A31–3.
- ³⁹Jacques Steinberg, "Asian-American Students Rise as Affirmative Action Ends," *The New York Times*, February 2, 2003, 3.
- ⁴⁰Sturgeon, "Moral Disagreement and Moral Relativism."