

# JUSTICE

WHAT'S  
THE RIGHT  
THING TO  
DO?

MICHAEL J.  
SANDEL

Executive Book Summary by Matthew Dow

## Chapter 1: Doing the Right

### Thing

Michael J. Sandel opens his book "Justice: What's the Right Thing to Do?" by exploring several ethical and moral dilemmas that society has faced.

First, in the wake of Hurricane Charley in 2004, price gouging for gasoline and other basic necessities became common place which fueled an anger by both customers and observers over the exploitation of a crisis for personal profit.

The second example outlined concerns the awarding of the Purple Heart for American soldiers wounded or killed by enemies. But, the Purple Heart is only awarded for physical injuries and not mental injuries like post-traumatic stress disorder (PTSD) which had, at the time of writing, become a significant and widespread "injury" following the wars in Afghanistan and Iraq.

The third example used was the infamous bailouts to Wall Street banks following the 2008 financial crisis where banks were given billions of dollars to secure risky investments. Banks then took the opportunity to award lavish bonuses on executives which sparked a wave of outrage.

WHAT'S THE RIGHT THING TO DO?

In all three case studies there is a moral concern about what is "just," or what is the right thing to do? Through the distribution of goods, whether gasoline, purple hearts or bank bonuses, Sandel identifies three ways of approaching these matters 1) Welfare; 2) Freedom; 3) Virtue. Many of the common debates about justice in society revolve around these three pillars: How do we maximize social welfare? How do

we respect freedom? And, how do we cultivate virtue?

Often moral disagreements occur between individuals, many times these disagreements occur within individuals. To resolve these conflicts, philosophers have employed moral reasoning to hypothetical and real life examples which Sandel employs throughout the book.

### Ethical Dilemma # One

Imagine you're a trolley car driver. The car's brakes have broken and it is heading down the road towards a group of five people which will surely die if you hit them. You have the ability to turn and only kill one worker on the alternative track. What would you do?

### Ethical Dilemma # Two

Now imagine you're an onlooker watching the car barrel down the track and you can save the five people down the track by pushing one person on the track which would effectively stop the train. What do you do? Why might your decision change from Conundrum One?

"Political philosophy cannot resolve these disagreements once and for all. But it can give shape to the arguments we have, and bring moral clarity to the alternatives we confront as democratic citizens"

## ABOUT THE AUTHOR



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### Chapter 2: The Greatest Happiness Principle / Utilitarianism

Jeremy Bentham (1748-1832) is often attributed as the father of utilitarianism. His argument to justice is that the highest principal of morality is to maximize the general welfare, the collective happiness, the overall balance of pleasure over pain. This is also known as “maximizing utility” which applies to both individuals and communities. This idea is now commonly referred to as the “greatest good for the greatest number” principal.

To determine what is just is to decide which choice maximizes the utility of the community by adding up all the benefits of a particular choice and subtracting all the costs. The right or “just” choice is the one that maximizes the balance of happiness over suffering. This is commonly referred to as a cost-benefit analysis where the benefits and costs are attributed a common value, typically a dollar value, which allows for greater comparison.

This perspective is has remained popular but has two primary objections.

**Individual Rights:** The utilitarian perspective fails to respect individual rights by only paying attention to the sum of community satisfaction.

**Case:** In ancient Rome, Christians were thrown into the colosseum for sport. While the Christian suffered greatly, the Roman’s collective ecstasy could be so great that it would could outweigh the utility costs of the Christians.

**Common Currency of Value:** Is it possible to translate all moral goods into a single currency?

**Case:** In the 1970’s, the Ford Pinto was prone to exploding when rear ended. Ford conducted a cost-benefit analysis and concluded the costs to repair every vehicle outweighed the costs to the loss of human life.

*“When moral reflection turns political, when it asks what laws should govern our collective life, it needs some engagement with the tumult of the city, with the arguments and incidents that roil the public mind”*

# What is the cost of human life?

## Chapter 3: Do We Own Ourselves? / Libertarianism

Economic inequality has become an increasing concern in the United States but why is this perceived as wrong provided that such inequality did not arise without force or fraud? One of the objections to utilitarianism listed above was on the basis of individual freedoms. Libertarians hold individual rights to be absolute and above any other moral code. They favor free markets and minimal government regulations, not in the name of economic efficiency or social welfare, but in the name of human freedom.

The libertarian idea rests on the basis of self-ownership. I own myself and my labour, and if I own my own labour, I am entitled to the fruits of my labour. Taxing the rich to pay the poor violates the rights of the rich. If my income is taxed, I lose the ownership of my labour and thus, ownership to myself.

The primary objections to libertarianism are as follows:

**Taxation is not slavery:** If you are taxed, you can choose to work less and pay lower taxes.

**Individuals owe their success to those who contribute towards it:** Success and wealth is not achieved independently and is a product of the social environment from which it rises.

**Individuals can vote on taxes:** In an democracy, individuals have a voice in making the tax laws to which they are subject.

**Success is product of luck:** While some success can be attributed to hard work, some success is also a product of favorable conditions and “natural gifts” that may be arbitrarily favored by a community.

Beyond these objections, libertarian ideals lend themselves to some particularly troubling moral questions. For instance, should one be able to terminate their own life through assisted suicide? Should a person be free to sell a kidney? What about consensual cannibalism?

## Chapter 4: Hired Help / Markets and Morals

Do markets have morals? Is the free market fair? Are there some goods that money can't buy or shouldn't buy? If so, what's wrong with buying and selling these goods.

The case for free markets rests on two claims. The first regards human freedom similar to the libertarian argument. The second is social welfare which is more similar to the utilitarian argument.

For example, most Americans and Canadians oppose any form of conscription for a military based on libertarian grounds, that the state should not coerce individuals into the armed services. One could also make the argument that conscription would decrease the overall social welfare when compared to a “volunteer army”. Either way, ranks of the armed forces in North America are filled through the labour market, just like any other job.

Sandel raises two objections to market in this case. First, how “free” are the members of the armed forces. They by and large come from low income backgrounds. Does an individual from a high income background have the same freedom than someone from a low income background? The second objection concerns the roles of civic virtue and the common good. What is difference between today's professional volunteer army and mercenaries? Markets would argue nothing - they are being paid for a service in demand but

most people have an objection and feel that armies should have some concept loyalty. But if loyalty or civic duty is included in the equation, why not conscript since everyone in a community should have the same level of civic obligation. This asks the larger question: What obligations beyond the market do citizens of democracies owe to one another and how do such obligations arise?

“JUSTICE”  
BY THE  
NUMBERS

Pages

308

Chapters

10

Equality doesn't mean Justice



This is Equality This is Justice



## Chapter 5: What Matters is Motives / Immanuel Kant

Immanuel Kant (1724 - 1804) was a philosopher in East Prussia. His primary works focused intensively on several questions: What is the supreme principal of morality? And what is human freedom?

Kant's answer to freedom is more stringent than most. He argues, that when humans seek pleasure or avoid pain, we aren't acting freely because we are acting as slaves to our appetites and desires. To act freely is not to choose the best means to a particular end; it is to choose the end itself, for its own sake. This is Kant's central philosophical idea known as the *categorical imperative*.

According to Kant, morality is based on a universal law, a commandment of pure practical reason from which all duties and obligations derive. When choosing actions, one may consider the ends that are right, such as helping someone, and ends which are "good" such as enriching oneself. Kant believed the "right" to be superior over the good and through reason human's can learn the "right".

One of Kant's "rights" is to be truthful, not because it is good but because it is principled. But what if a murderer comes to your door to ask for

your friend who is hiding in the house. Is it morally permissible to lie to the murderer? Kant would argue that it would violate the *categorical imperative* to tell the murderer that your friend is not there; however, it would not violate the categorical imperative if you said, "I saw that person down the street two hours ago..." for the latter is not a complete lie.

## SPOT THE DIFFERENCE?



\* Black Water is a private mercenary army used in the wars in Iraq and Afghanistan. They are paid to fight.



The United States Army are paid professional soldiers. They are also paid to fight.



Immanuel Kant (1724 - 1804)

*“Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction.” - Kant*

# “The principles of justice are chosen behind a veil of ignorance” - John Rawls

## Chapter 6: The Case for Equality / John Rawls

Most citizens in a democratic country have never signed a contract but much of political philosophy regards the social contract, a social agreement to surrender some rights and freedom in exchange for the protection of the rest of your rights. But if I never consented to this agreement, does it still apply? John Locke argued that consent is tacitly provided when anyone enjoys the benefits of government. But how can a hypothetical agreement do the moral work of real contract?

John Rawls (1921 - 2002), an American philosopher, argues that the way to think about justice is to think about what principles a community would agree to during an initial situation of equality.

Imagine if society gathered to collectively decide on which moral principals they want to govern the social social - to write a social contract. Such a task would be exceptionally difficult since many hold different political and religious values while some are very rich and powerful while others are very poor and politically marginalized. There is no way to know whether a final arrangement would be “just” based on these inequalities. But imagine, everyone in society was blinded by a veil of ignorance, that is, they don’t know whether they are rich or poor, powerful or weak, female or male, strong or frail. What kind of contract would emerge from this arrangement since no one would have superior bargaining power?

Rawls thinks that through this initial arrangement of equality, all rational self-interested individuals would not choose utilitarianism because they don’t know if they are the Christians being thrown to the lions. Nor would the choose pure libertarian principals

because they could be poor or homeless with no social safety net. Rawls believes that two principals of justice would emerge. The first, basic liberties for all such as freedom of speech and association which would supersede social utility or general welfare. The second principal would be concern social and economic equality. Rawls does not think there would need to be pure equality but a system that provides benefits to the least well off. When the distribution of wealth no longer improves the well-being of least well off person, redistribution should be reduced.

Sandel concludes that Rawls has presented the most compelling case for a more equal society in the history of American political philosophy.



## Chapter 7: Arguing Affirmative Action

Affirmative Action is among the most hotly contest topics in contemporary racial politics in America. The promotion of individuals from marginalized communities in employment and universities not based on merit but on the color their skin challenges the many of our core values regarding equality.

Sandel argues that affirmative action is based on two rationales. The first is to compensate for past wrongs and injustice. It says that minority students should get preference to remedy a history of racial discrimination which has placed them at a poor advantage. But if this is the case, shouldn’t affirmative action be based on class and not race? The second rationale is the promotion of diversity. It argues that affirmative action is not a means to assist marginalized communities, but to pursue diversity as a social good. Diversity allows for individuals to learn from one another and gain critical cultural and intellectual perspectives.

A brief submitted in a US Supreme Court case over Harvard’s affirmative action policy states, “If scholarly excellence were the sole or even predominant criterion [for admission], Harvard College would lose a great deal of its vitality and intellectual excellence...[T]he quality of the educational experience offered to all students would suffer” Objectors to this rationale argue that affirmative action is unlikely to meet is goal and that such policies will only invigorate a hostile response towards marginalized communities.

The primary objection against affirmative action is based in libertarian principals since race based preferences violate the rights of other applicants who are eligible but not chosen. Richard Dworkin, a legal philosopher, addressed this claim by asking what right has been violated. Perhaps a white student who is denied admission to university believe it is there right not to be judged by factors, such as race, which are beyond their control but as Dworkin rightly points out, most traditional criteria for university admission involve factors beyond one’s control. For instance, being a lousy football player or a having

## SPOT THE DIFFERENCE



\* Segregationist policies separated students at American schools based on race.



Affirmative actions policies at universities select students for admission based on race.

a poor ear for music may prevent someone from gaining admission but these are certainly beyond one's control. Other's would argue good football players should be based solely on their academic merit but Dworkin points out that universities define their missions and subsequent admissions criteria on many attributes and that no individual has the right that the university define

their criteria in a way that prizes above all, a particular attribute whether academic or athletic skill. Dworkin's core argument is that admission to a university is not an honor or a virtue, it is a way to contribute to the social purpose of the university. The mission of the university defines the relevant merits, not the other way around.

This certainly raises larger questions about how universities define their missions since universities could and have anti-Jew quotas or other discriminatory policies but Sandel points out, affirmative action differs because it is not intended to insult or stigmatize anyone whereas anti-Jew quotas used race as a badge of inferiority.

### Chapter 8: Who Deserves What? / Aristotle

Greek philosopher Aristotle had two central ideas concerning justice. The first, justice is teleological. To define "rights" requires us to figure out its *telos* or, the purpose, end or essential nature of the social practice in question. Second, justice is honorific which means, to reason about the *telos* of a practice is, in part, to reason or argue about what virtues it should honor and reward. He believed debates about justice are really just debates about honor, virtue, and the nature of the good life.

For Aristotle, justice means giving people what they deserve but one must argue: What are the merits that determine what someone is due? Aristotle would argue that it depends on what is being distributed. To determine what is the just distribution is to inquire about the *telos* of the good

## CASEY MARTIN'S GOLF CART



Casey Martin was a professional golfer but suffered from a bad leg that required he use a golf cart while on the course. Prior to joining the professional tour, he petitioned for the use of golf cart, a request that was denied because it would give Martin an unfair advantage. The case went to the US Supreme Court where it was decided that he should be able to use the cart. The court ruled that carts were not inconsistent with the fundamental character of the game.

*"The essence of the game has been about shot making-using clubs to cause the ball to progress from the teeing ground to a hole some distance away with as few strokes as possible."*

Do you agree with the Supreme Court decision or does Martin's golf cart give him an unfair advantage?

being distributed. Since, according to Aristotle, every distribution of justice discriminates so we must determine what discriminations are just?

For instance, suppose a community is distributing pianos, who gets the best piano? Aristotle would argue that the best piano players should get the best pianos because the purpose of pianos is to create beautiful music and the best piano players can make the most beautiful music. To distribute pianos on any other grounds, such as nobility, wealth, or strength, would be unjust. Returning to affirmative action in universities, to determine what is "just" is to determine the *telos* of the university, a topic which remains contested.

In the realm of politics, Aristotle argues the *telos* of politics is the pursuit of the good life, therefore, the people who should hold the highest offices and honors should be those who are greatest at identifying the common good. Through laws and social norms, communities can cultivate the good life and good character. However, Kant and Rawls reject this way of thinking for it leaves little room for freedom. For instance, a constitution that tries affirm a particular conception of the "good life" risks imposing on some of the values of others.



Aristotle (384 - 322 BC)

## “Making amends for my country’s past wrongs is one way of affirming my allegiance to it”

### Chapter 9: What Do We Owe One Another / Dilemmas of Loyalty

Do the ancestors of slave owning Americans owe an apology to the ancestors of African American slaves? Surely an injustice took place but can a current generation make an apology for past wrongs of a previous generation? If yes, should they? Former Prime Minister of Australia John Howard, when discussing the issue in the context of the treatment of Australia’s aboriginal population stated, “I don’t not believe that the current generation of Australians should formally apologize and accept responsibility for the deeds of an earlier generation.” This debate intensifies with the discussions of reparations.

The principled objection to these apologies outlined by Howard is that we are responsible for our own actions and not the actions of others. This is also known as the moral individualism, but is there room for collective responsibility? Rawls would answer no based on the two liberal conceptions of obligations. The first are natural duties that are universal, obligations we owe one another as rational beings. They include obligations to respect others, to do justice, to avoid cruelty etc. The second are voluntary obligations that we incur by consent. They could include the obligation to paint your house if I have been paid to do so. But do we have obligations beyond these two?

Sandel would argue yes, we have an obligation of solidarity to those whom we share a certain history. The moral weight of this obligation is derived from the “situated aspects of moral reflection, from a recognition that my life story is implicated in the stories of others.” These obligations manifest themselves in families, communities and religious organizations.

The objection to the obligation of solidarity is that this special obligation is really just collective selfishness, or a “prejudice for own kind.” Sandel responds and argues that obligations of solidarity are both inwards and outward and that many of the special responsibilities flow between particular communities who have a morally burdened history, like the history between the ancestors of slave owners and the ancestors of slaves. Collective apologies are primary examples of the way solidarity can create moral responsibilities for communities beyond than the ones that we belong to.

### Chapter 10: Justice and the Common Good

Sandel concludes the book challenging by liberal conceptions of neutrality in pursuit of the “the good life”. He argues, “the attempt to detach argument about justice and rights from arguments about the good life is mistaken for two reasons: First, it is not always possible to decide questions of justice and rights without resolving substantive moral questions; and second, even where it’s possible, it may not be desirable.” Take for instance, the abortion and stem cell debates. There is no space for neutrality within the state, abortion is either provided, often on the bases of freedom of choice, or it is not. Either sides case cannot be made without taking on the moral and religious controversy about when human life starts.

Justice, Sandel argues, is inescapably judgmental. Whether discussing Purple Hearts or bank bailouts, abortion or conscription, questions of justice are linked with competing notions of honor and virtue, pride and recognition. Justice must be understood beyond what is the right way to distribute things, it is also about the right way to value things.

Sandel concludes with four possible themes for the “new politics of the common good”, which he hoped at the

“A politics of moral engagement is not only a more inspiring ideal than a politics of avoidance. It is also a more promising basis for a just society.”

time of writing, were being brought out through Barack Obama’s 2008 presidential campaign.

**Citizenship, Sacrifice and Service:** “If a just society requires a strong sense of community, it must find a way to cultivate in citizens a concern for the whole, a dedication to the common good.”

**The Moral Limits of Markets:** “Markets are useful instruments for organizing productive activity. But unless we want to let the market rewrite the norms that govern social institutions, we need a public debate about the moral limits of markets”

**Inequality, solidarity and Civic Virtue:** The gap between the rich and the poor undermines the solidarity that democratic citizenship requires.

**The Politics of Moral Engagement:** “...we need a more robust and engaged civic life than the one to which we’ve become accustomed...A more robust public engagement with our moral disagreements could provide stronger, not a weaker basis for mutual respect”



*“Our Gross National Product now is over 800 billion dollars a year. But that Gross National Product counts air pollution and cigarette advertises, and ambulances to clear our highways of carnage. It counts special locks for our doors and the jails for the people who break them. It counts the destruction of the redwood and the loss of our natural wonder in chaotic sprawl. It counts napalm and counts nuclear warheads and armored cars for police to fight the riots in our cities. It counts...television programs which glorify violence in order to sell toys to our children. Yet the Gross National Product does not allow for the health of our children, the quality of their education or the joy of their play. It does not include the beauty of our poetry or the strength of our marriages, the intelligence of our public debate or the integrity of our public officials. It measures neither our wit nor our courage, neither our wisdom nor our learning, neither our compassion nor our devotion to our country. It measures everything, in short, except that which makes life worthwhile. And it can tell us everything about America except why we are proud to be Americans.” – Robert F. Kennedy, 1968*

## REVIEW *by Matthew Dow*

Michael J. Sandel has been able to capture and present the most important ideas in political philosophy with tremendous clarity. His presentation reflects that best of academic populism by tackling some of the most complex and controversial moral issues, and breaking them down, not by party or partisan lines, but through the theoretical traditions that remain the foundations of our current political arrangements. His defense of the “politics of the common good” is unequivocal and he provides readers with a clear path forward. All voters, politicians, bureaucrats and citizens would do well to read this book and be forced to rethink their assumptions of civic and political life. Sandel asks us all for a more just way of doing politics, are we up to the challenge?

Engaging	96%
Accessible	93%
Comprehensive	97%
Inspiring	91%
Informative	97%