Nancy Fraser
Scales of Justice

Reimagining Political Space
in a Globalizing World

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New Directions in Critical Theory presents outstanding classic and contemporary texts in the tradition of critical social theory, broadly construed. The series aims to renew and advance the program of critical social theory, with a particular focus on theorizing contemporary struggles around gender, race, sexuality, class, and globalization and their complex interconnections.

for Jenny Mansbridge,
a dear friend of the heart and of the mind

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Scales of Justice, the Balance and the Map

An Introduction

My title, *Scales of Justice*, evokes two images. The first one is very familiar, almost a cliché: the moral balance in which an impartial judge weighs the relative merits of conflicting claims. Long central to the understanding of justice, this image still inspires struggles for social justice in the present era, notwithstanding widespread skepticism concerning the very idea of an impartial judge. The second image is less familiar: the geographer's metric for representing spatial relationships. Only recently salient in justice theorizing, this image is now informing struggles over globalization, as transnational social movements contest the national frame within which justice conflicts have historically been situated and seek to re-map the bounds of justice on a broader scale.

Each of these images – the *balance* and the *map* – stands for a knot of difficult questions. The balance stands for the problematic of *impartiality*: What, if anything, can guarantee a fair assessment of competing claims? Always thorny, this issue surfaces in every context of power asymmetry, when disadvantaged people cry out for justice, as if addressing an impartial judge, even though they know full well that none exists and that the standards by which they will be judged are stacked against them. But over and above that general dilemma, the problematic of impartiality faces another, more radical challenge in the present era. Thanks to an epochal shift in political culture, today's social-justice movements lack a shared

understanding of the *substance* of justice. Unlike their twentieth-century predecessors, who militated mostly for "redistribution," present-day claimants couch their demands in a variety of idioms, which are oriented to competing goals. Today, for example, class-accented appeals for economic redistribution are routinely pitted against minority-group demands for "recognition," while feminist claims for gender justice often collide with demands for supposedly traditional forms of religious or communal justice. The result is a radical heterogeneity of justice discourse, which poses a major challenge to the idea of the moral balance: Where is the scale of justice on which such heterogeneous claims can be impartially weighed?

The image of the map, in contrast, stands for the problematic of *framing*: What, if anything, should delimit the bounds of justice? Unlike that of impartiality, which is generally contested in one form or another, the problematic of the map can lie dormant for long historical stretches, when a hegemonic frame is naturalized and taken for granted. This was arguably the case in the heyday of social democracy when it went without saying that the unit within which justice applied was the modern territorial state. In that context, most political antagonists shared the unspoken assumption that obligations of distributive justice applied only among fellow citizens. Today, by contrast, this "Westphalian" framing of justice is in dispute. Currently resurfacing as a stake of struggle, the frame is now contested, as human-rights activists and international feminists join critics of the World Trade Organization in foregrounding transborder injustices. Today, accordingly, justice claims are increasingly mapped in competing geographical scales – as, for example, when claims on behalf of "the global poor" are pitted against the claims of citizens of bounded polities. This sort of heterogeneity raises a radical challenge of another kind: Given the plurality of competing frames for organizing, and resolving, justice conflicts, how do we know which scale of justice is truly just?

For both problematics, then, that of the balance and that of the map, the challenges posed in the present epoch are truly radical. In both cases, too, the plural form, *scales* of justice, signals the heightened character of the difficulty. In the case of the balance, the difficulty stems from the plurality of competing idioms for articulating claims, which threatens to explode

the conventional image of impartiality. Envisioning a conflict of pro and con, that image represents impartial justice as the mutual weighing, on a single apparatus, of two sets of considerations, countervailing but nevertheless commensurable. That representation may have seemed plausible in the Cold War era, when a distinctive understanding of the substance of justice was widely shared. In that period, major political currents converged on a *distributive* conception, which equated social justice with the fair allocation of divisible goods, typically economic in nature. A shared presupposition of first-world social democracy, second-world communism, and third-world developmentalism, that view supplied a measure of commensurability to conflicting demands. Subtending fierce disputes about what should count as a just distribution, the hegemonic distributivist imaginary lent some credibility to the conventional representation of the moral balance. If all parties were arguing about the same thing, then perhaps their claims could be weighed on a single scale.

Today, however, the received image of the balance is stretched to the breaking point. Current conflicts exceed its template of a simple dualism of commensurable alternatives, as present-day claims for justice routinely run up against counterclaims whose underlying ontological assumptions they do not share. For example, movements demanding economic redistribution often clash not only with defenders of the economic status quo, but also with movements seeking recognition of group specificity, on the one hand, and with those seeking new schemes of political representation, on the other. In such cases, the question is not simply, redistribution: pro or con? Nor even, redistribution: how much or how little? Where claimants hold conflicting views of the substance of justice, another question is also at issue: redistribution or recognition or representation? The effect is to raise suspicions that the conventional ideal of impartiality may be incoherent, as what is disputed today is not just conflicting claims but conflicting ontologies, which entail conflicting criteria for assessing claims. What looms, accordingly, is not just the threat of partiality, but the specter of *incommensurability*. Can substantively heterogeneous claims really be fairly weighed on a single balance? And failing that, what remains of the ideal of impartiality?

Under these conditions, the impartiality problematic cannot be conceived in the usual way. Rather, that problematic must be radicalized – so as to confront, and if possible dispel, the threat of incommensurability. Forswearing the conventional interpretation of the balance image, those who would theorize justice in the present era must ask: Given the clash of rival conceptions of the substance of justice, each effectively equipped with its own set of scales, how should we decide which balance to use in a given case? How can we reconstruct the ideal of impartiality to assure that heterogeneous claims can be fairly assessed?

In the case of the second, cartographic, image, the plural form, *scales* of justice, also signals the gravity of present-day difficulties. The trouble here stems from the plurality of conflicting framings of the bounds of justice, which has dena-turalized the Westphalian mapping of political space. Long hegemonic, that metric represented political communities as geographically bounded units, demarcated by sharply drawn borders and arrayed side by side. Associating each such polity with a state of its own, the Westphalian political imaginary invested the state with exclusive, undivided sovereignty over its territory, barring "external interference" in its "internal affairs" and foreclosing deference to any higher, supranational power. In addition, this view enshrined a sharp division between two qualitatively different kinds of political space. Whereas "domestic" space was imagined as the pacified civil realm of the social contract, subject to law and obligations of justice, "international" space was envisioned as a state of nature, a warlike realm of strategic bargaining and *raison d'état*, devoid of any binding duties of justice. In the Westphalian imaginary, accordingly, the subjects of justice could only be fellow members of a territorialized citizenry. To be sure, this mapping of political space was never fully realized; international law tamed relations among states to some degree, while Great Power hegemony and modern imperialism belied the notion of an international system of equal sovereign states. Yet this imaginary exercised a powerful sway, inflecting the independence dreams of colonized peoples, who mostly yearned for Westphalian states of their own.

Today, however, the Westphalian mapping of political space is losing its hold. Certainly, its posit of exclusive, undivided

state sovereignty is no longer plausible, given a ramifying human-rights regime, on the one hand, and spiraling networks of global governance, on the other. Equally questionable is the notion of a sharp division between domestic and international space, given novel forms of "intermestic" politics, practiced by new, trans-territorial non-state actors, including transnational social movements, intergovernmental organizations, and international nongovernmental organizations. Also dubious is the view of territoriality as the sole basis for assigning obligations of justice, given patently trans-territorial problems, such as global warming or genetically modified agriculture, which prompt many to think in terms of functionally defined "communities of risk" that expand the bounds of justice to include everyone potentially affected. No wonder, then, that activists contesting transnational inequities reject the view that justice can only be imagined territorially, as a domestic relation among fellow citizens. Positing postwestphalian views of "who counts," they are subjecting the Westphalian frame to explicit critique.

The upshot is that the framing problematic no longer goes without saying – in theory and practice. Now that the mapping of political space is an object of struggle, those interested in justice today cannot fail to ask: Given the clash of rival views of the bounds of justice, how should we decide whose interests ought to count? Faced with competing framings of social conflicts, how should we determine which mapping of political space is just?

In general, then, both images of *scales of justice* harbor formidable challenges to received understandings in the present era. In the case of the balance, the challenge stems from competing views of the "what" of justice: redistribution or recognition or representation? In the case of the map, the trouble arises from conflicting framings of the "who": territorialized citizenries or global humanity or transnational communities of risk? In the problematic of the balance, then, the central issue is: *What* counts as a bonafide matter of justice? In that of the map, by contrast, the question is: *Who* counts as a bonafide subject of justice?

The present volume aims to respond to both of these challenges. Originally prepared as a stand-alone essay, lecture, or interview, each chapter addresses current conundrums

concerning the "what" and the "who." Read together, they propose distinctive analyses of, and answers to, those questions. Addressing the problematic of the balance, I elaborate a *three-dimensional* account of the "what" of justice, encompassing *redistribution, recognition,* and *representation*. Addressing the problematic of the map, I propose a *critical theory of framing* aimed at clarifying the "who" of justice. The result is a set of sustained reflections on who should count with respect to what in a postwestphalian world. Let me elaborate.

Chapter 2, "Reframing Justice in a Globalizing World," aims to clarify present-day struggles over globalization. Revising my previous account of the "what" of justice, I introduce a third, *political* dimension alongside the economic and cultural dimensions I foregrounded earlier. Analytically distinct from redistribution and recognition, *representation* serves in part to account for "ordinary-political injustices," which arise internally, *within* bounded political communities, when skewed decision rules compromise the political voice of some who are already counted as members, impairing their ability to participate as peers in social interaction. This revision enriches our understanding of the "what" of justice, while also remedying a lacuna in my previous theory, which failed to appreciate the relative autonomy of inequities rooted in the political constitution of society, as opposed to the economic structure or the status order.

But that is not all. The addition of the third dimension also serves to account for "meta-political injustices," which arise when the division of political space *into* bounded polities works to misframe first-order questions of distribution, recognition, and representation – say, by casting what are actually transnational injustices as national matters. In that case, the "who" of justice is itself unjustly defined, as affected non-citizens are wrongly excluded from consideration. This is the case when, for example, the claims of the global poor are shunted into the domestic political arenas of weak or failed states and blocked from confronting the offshore sources of their dispossession. The result is a special, meta-political, kind of misrepresentation that I call *misframing*. Misframing, I claim, is an indispensable concept for critical theory, as it allows one to interrogate the mapping of political space from the standpoint of justice. Drawn from an expanded understanding of the "what," that notion enables critique of the "who." Engaging both the balance

and the map, then, this chapter forges a conceptual link between those two images of *scales of justice*.

Chapter 3 elaborates, and complicates, that link. Here, however, the focus shifts from social reality to political philosophy, as I identify "Two Dogmas of Egalitarianism" in recent justice theorizing. The first dogma is the unexamined presupposition of the Westphalian "who." Deeply ingrained in the preceding period, even amid lively debates about the "what," the assumption that the national territorial state is the sole unit within which justice applies is no longer axiomatic today, as philosophers openly dispute the bounds of justice. Now, in intense exchanges sparked by John Rawls's *Law of Peoples*, the question of who counts as a subject of justice is receiving its due. Yet congratulations are, in my view, premature. Analyzing these debates, I uncover a second dogma of egalitarianism, stubbornly entrenched and possibly strengthening, despite (or perhaps because of) the decline of the first.

The second dogma is an unspoken methodological premise, concerning *how* one should determine the "who." Even as they disagree fiercely about the latter, cosmopolitans, internationalists, and liberal nationalists are tacitly agreed that disputes over the framing of justice can and should be resolved scientifically, by technical methods. That view follows from their shared supposition that what turns a collection of people into fellow subjects of justice is their co-imbrication in a common "basic structure," which determines their relative chances to live a good life. Although some identify that structure with the constitution of a bounded polity, while others equate it instead with the governance mechanisms of the global economy, nearly all look to social science to settle the issue, as if it could tell us, as a matter of fact, which structure is "basic." Here, accordingly, lies the second dogma of egalitarianism: the tacit, unargued assumption that normal social science can determine the "who" of justice. This chapter rejects that premise. Aiming to overcome the second dogma, I elaborate a "critical-democratic" alternative, which treats disputes about framing as *political* matters, to be settled by democratic debate and institutional decision-making on a transnational scale. A plea for transnational "meta-democracy," my argument serves as well to disclose a third parameter of justice, beyond the "what" and the "who." Absent a defensible approach to the "how," I conclude,

we will never satisfactorily resolve the problems of the balance and the map.

Chapter 4 synthesizes the foregoing considerations into a programmatic reflection on "Abnormal Justice." Inspired by Richard Rorty, I suggest that most political theorists have tacitly conceived conflicts over justice on the model of "normal discourse." Presupposing the absence of deep disagreements about what well-formed justice claims look like, they have sought to elaborate normative principles that could resolve disputes in contexts where the grammar of justice was relatively settled. Whatever its merits for other historical eras, this approach is patently unsuitable today, when justice conflicts often assume the guise of "abnormal discourse." Absent a shared understanding of the "what," the "who," and the "how," not only first-order questions of normal justice, but the grammar of justice itself is up for grabs. What is needed today, accordingly, is a different sort of political theorizing, aimed at clarifying problems of "abnormal justice," in which first-order justice conflicts are interlaced with meta-disagreements. This chapter sketches such a theory. Neither celebrating abnormality nor rushing to instate a "new normal," I seek to accommodate both the positive and negative sides of abnormal justice – valorizing expanded contestation of previously overlooked harms, such as non-distributive inequities and transborder injustices, while also tracking reduced capacities for overcoming injustice, absent a stable framework in which claims can be equitably vetted and absent legitimate agencies by which they can be efficaciously redressed.

Chapter 5 assesses the capacity of public-sphere theory to advance such a project. Seeking to reimagine democracy for abnormal times, I ask: Can the ideal of inclusive, unrestricted political communication still play a critical, emancipatory role in the present era, when publics no longer coincide with territorial citizenries, economies are no longer national, and states no longer possess the necessary and sufficient capacity to solve many problems? Doubts arise because the critical force of public-sphere theory has always depended on a two-fold idealizing supposition: public opinion should be *normatively legitimate* and *politically efficacious*. However counterfactual, both ideas were arguably clear enough when viewed through the Westphalian lens: legitimacy required that fellow citizens