

In Defence of Pure Pluralism: Two Readings of Walzer's *Spheres of Justice**

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I. INTRODUCTION

IN this article I will argue that there are two theories of distributive justice hidden in Walzer's *Spheres of Justice*. The first one emphasises the separation of distributive spheres. It tries to formulate distributive criteria by sticking faithfully to sphere-specificity. I shall refer to this theory as 'pure pluralism'. The second theory downplays the separation of spheres and emphasises 'across spheres' or 'between spheres' criteria instead. I shall call this theory 'mitigated pluralism'. Mitigated pluralism has become popular among Walzer's friendly critics who apparently do not want to charge him with a distributive theory as clear and rigid as pure pluralism. Although I consider myself another friendly critic, I shall argue in favour of pure pluralism.

I do not intend to do that by examining which theory is a better match with the text of *Spheres of Justice* or more in line with Walzer's other writings. The text of *Spheres of Justice* obviously points both ways. I am even willing to admit that mitigated pluralism might be a slightly better fit and more in line with Walzer's recent writings.¹ However, that does not necessarily make it a better theory of distributive justice. I want to make a comparison between mitigated pluralism and pure pluralism which does not refer to the original author's intentions. I intend to evaluate these theories as one would evaluate every theory of justice, using criteria such as consistency, clarity and capacity for problem-solving. In section VI I will add something extra to the comparison by making use of the ideas about different types of moral judgement put forward by Jon Elster and others in their local justice research project. The local justice research project is closely related to Walzer's work² and may therefore provide us with insights that can help us choose between the two types of pluralism hidden in *Spheres of Justice*.

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¹E.g. Walzer 1994 and 1998.

²Cf. Elster 1992, pp. 11–13.

II. WALZER'S SPHERES

Spheres of Justice can be summarised in four central propositions:³

1. Justice is not to be found in an objective, universal Archimedean point or a hypothetical original position, it is to be found in 'our concepts and categories', in 'the world of meanings that we share'.⁴
2. Justice is to be found within the boundaries of a political community. Each political community is a world of common meanings and these worlds of common meanings can only be sustained if the political community 'can claim control authority to make its own admission policy, to control and sometimes restrain the flow of immigrants'.⁵ Walzer's world of shared understandings presupposes the existence of other worlds with other shared understandings and a world of shared understandings can only be kept alive apart if there is some legitimate institution to guard the boundaries.
3. In liberal western societies such as the United States and many European countries justice takes a different shape in different societal spheres. In the sphere of education justice has to do with creating equal opportunities (in primary education) and with rewarding according to merit (in secondary education). In the sphere of money and commodities, justice takes the shape of free exchange. In the sphere of welfare, goods are distributed according to 'socially recognized needs'. In the sphere of politics justice is about procedures: democratic elections, the will of the majority, gaining the public's favour and so on. Each sphere of justice has its own 'internal moral logic'. A political community should be ordered in such a way that its spheres of justice can uphold their internal moral logic.
4. If a political community manages to keep its spheres of justice apart, such a community accomplishes an ideal called 'complex equality'. Simple egalitarians are egalitarians who abhor income inequalities as such. Complex egalitarians on the other hand can put up with quite a lot of inequality in the sphere of money and commodities as long as this inequality is confined within that particular sphere. Rich people should not be able to buy political power, love and friendship, better education for their children, or preferential treatment by doctors, judges and policemen. But if these conditions are fulfilled there is nothing wrong with richness per se. The ideal of complex equality presupposes that people have different talents and that different people will do differently in different spheres. One person will be an excellent scientist, another will be a successful businessman, a third one will be a kind and loving parent, a fourth one will be a well-respected politician and so forth.

³Trappenburg and Van den Berg 1994.

⁴Walzer 1983, p. xiv.

⁵Walzer 1983, p. 39.

III. PURE PLURALISM

The differences between pure pluralism and mitigated pluralism have to do with the third and fourth propositions. From the pure pluralist perspective these two principles are the cornerstone of Walzer's distributive theory. On the one hand pure pluralists appreciate the fact that these two principles (separation of spheres and complex equality) correspond nicely with our experiences in daily life. Distributing time and affection among family members is indeed totally different from attributing grades to one's students in the classroom or granting welfare allowances to needy citizens. People who do extraordinarily well in one sphere do not always meet similar approval in other spheres. We all know people whom we admire as great scientists, philosophers or politicians but with whom we could never fall in love or be friends with. We also know people who are loving and patient parents but who fail in their professional life and it feels right that we can and do separate these judgements.

On the other hand the principle of separate spheres functions as a critical normative principle. We can use it to question and criticise our own behaviour (does this student really deserve this grade for academic reasons or does he get it because I like him, or because I feel sorry for him since he just lost his mother?). We can use it to criticise reigning attitudes among policy makers, fellow citizens or both. We may question the growing influence of market principles outside the sphere of money and commodities, the growing tendency to transform personal problems into pseudomedical needs that should be addressed in 'counselling therapy', or the dubious habit of some policy makers to present political choices as technocratic-scientific puzzles. We can qualify these attitudes as boundary crossings. Lastly, and most importantly, we can use the principle of separate spheres to redesign existing societal arrangements. A pure pluralist American political philosopher can show his fellow citizens that they should change their health care system, given the fact that they seem to agree that medical care ought to be distributed according to medical need and not according to wealth. He may point out that the system of legal aid should be transformed, given the fact that most of his fellow citizens will share his opinion that criminal justice should not be for sale. And he may argue that the system of presidential campaigns should be altered drastically because these days being a millionaire seems to be a precondition for reaching the oval office, while most American citizens would agree that political power should not be for sale.

Of course, pure pluralists realize that the boundaries between different societal spheres are never watertight and that it will often be impossible to accomplish that. Pure pluralists also realize that sometimes different principles are used to distribute one particular social good and that some social goods do not fall neatly into one particular sphere. However, they think that this does not diminish the value of spherical autonomy as a guiding principle. On the contrary. It makes them gratefully aware that they possess a principle that is on the one hand firmly

rooted in our collective shared understandings and on the other hand capable of providing guidance in the rather chaotic reality of distributional problems in daily life.

IV. MITIGATED PLURALISM

Walzer's friendly critics, the mitigated pluralists, seem to share a certain dislike for his third proposition, the principle of spherical autonomy. They try to improve *Spheres of Justice* by seeking or constructing 'across spheres criteria', 'overarching principles' 'underlying notions that go beyond local autonomy' and 'non sphere-specific considerations'. Their argument can roughly be summarised as follows:

1. Walzer maintains that we should derive distributive criteria from the meaning of social goods in our political community. However, social goods have multiple or ambivalent meanings. Therefore, it does not seem feasible to derive unambiguous distributive criteria from the social meaning of goods.⁶
2. Certain criteria of distributive justice seem to be important across societal spheres. One such criterion is individual responsibility. We may feel that certain goods (for example, welfare and medical care) ought to be distributed according to need, but we also think that people should take responsibility for their own lives. If they fail to do so we will not be willing to give them whatever they may happen to need.⁷ Another criterion that seems to apply across societal spheres is equal citizenship. We want to distribute social goods (all social goods) in such a way as to sustain equal citizenship.⁸
3. Moreover, even if it were possible to stick to the intrinsic meanings of social goods and to keep our spheres of justice separate accordingly, it would not be desirable to do so. It would not be desirable because, contrary to what Walzer professes to believe in *Spheres of Justice*, it is not unlikely that certain people would come up last in almost every sphere. A strict separation of spheres could interfere with Walzer's commitment to equality. It might be easier to accomplish complex equality if one was not hindered by the requirement of strictly separated spheres.⁹
4. Hence, we should keep the good part of *Spheres of Justice*, the plurality of principles of justice, because, as Walzer rightly stated, justice cannot be caught in one simple formula (Dworkin's 'equal concern and respect'), justice is necessarily plural. But we should not strive to tailor this plurality into a

⁶Gutmann 1995, p. 102–11.

⁷Gutmann 1995, p. 113

⁸Gutmann 1995; Miller 1995; van der Veen 1999.

⁹van der Veen 1999, p. 226–9; Miller 1990, p. 95.

rigid system of societal spheres.¹⁰ Instead, according to Den Hartogh, we should simply take a plurality of principles into account when thinking about concrete issues of social justice, and we should try to balance the appropriate principles in order to acquire satisfactory results.¹¹ Gutmann advocates a similar solution. In her opinion we ought to honour sphere-specific principles and overarching principles alike and aim for ‘a conception of social justice that is complex but not sphere-specific’.¹² According to Miller and van der Veen we should rely on an overarching notion of equal citizenship to function as some sort of referee criterion when our shared understandings concerning the distribution of certain social goods seem to pull in different directions.¹³

Mitigated pluralism as put forward by Miller and van der Veen seems a more promising theory of justice than the rather indeterminate multiprinciple approach endorsed by Den Hartogh and Gutmann. Simply stating that most questions of distributive justice involve many different distributive principles and that we should carefully weigh and balance them does not seem to bring us much further than we are when we think about distributive questions without the aid of a theory of justice.¹⁴ The approach defended by Miller and van der Veen offers more of a stronghold. In their view we should first consult our (sphere-specific) shared understandings when thinking about the proper distribution of certain social goods. But whenever these common understandings are ambivalent we let ourselves be guided by a ‘master principle’, namely equal citizenship. Thus if we wonder about, say, the distribution of professorships at universities, we will first reflect on the meaning of professorships in our political community. Should we conclude that our shared understandings indicate unambiguously that professorships ought to be distributed according to scientific merit, then that is the end of it. We will have our professors appointed on the basis of merit alone and we will not consider preferential treatment for blacks, women or other underprivileged groups. However, should we conclude that our shared understandings on this issue are ambivalent, should we feel that university professors ought to do more than just teach and write—for example, they should also function as role models for students from all parts of the population—we

¹⁰It is interesting to note that Miller was committed to a plurality of distributive criteria before *Spheres of Justice* was written. Miller’s *Social Justice* (1976) is about what he considers the three fundamental principles of justice: needs, desert and rights. Apparently he likes the way Walzer has elaborated on his multiplicity of principles, but he has less appreciation for the genuine Walzer element of separate spheres. Gutmann on the other hand was much more enthusiastic about the idea of separate spheres in her earlier work (cf. Gutmann 1980).

¹¹Den Hartogh 1999, pp. 517–18

¹²Gutmann 1995, p. 119

¹³Miller 1995, p. 13; van der Veen 1998, p. 248

¹⁴Den Hartogh argues that his approach resembles the principles approach in medical ethics, presumably referring to the famous classic by Beauchamp and Childress (1989). However, Beauchamp and Childress at least commit themselves to a definite number of principles (four) and seem to prefer a certain ranking as well (mostly the principle of autonomy will take precedence over the other three principles).

might then have to solve the issue of preferential treatment by applying the equal citizenship criterion. Miller and van der Veen assume that this will happen very often, since (see point 1 on the friendly critics' list) social meanings are often ambivalent. To Miller and van der Veen equal citizenship is not a last resort referee criterion, in their view it is meant for daily use when questions of distributive justice arise.

V. COMPLICATIONS

According to the friendly critics, Walzer's original *modus operandi* in addressing issues of distributive justice can be described as follows:

- Take a certain good *x*, say, bikes, telephones, train-tickets or barbering services. Or broader: medical care, transportation and higher education.
- Determine the social meaning of *x* in your political community. Let us stick to the bikes. You think about bikes and, if you are an American, you conclude that they are not very important in your political community. They are mostly used for sports and recreation. However, if you are a Dutchman you may conclude that bikes are among the basic necessities of life, especially so for high school students or citizens of smaller university towns where public transport is scarce and driving a car is almost completely prohibited.
- Then deduce an appropriate principle of distribution. In America you may decide that a bike is a mere commodity that can be bought and sold on the market. In the Netherlands you might conclude that bikes should be subject to collective provision. Or, alternatively, you might conclude that family incomes ought to be such as to allow for the purchase of bikes for all family members above the age of ten. You may add that a family facing a bankruptcy should be allowed to keep its bikes.

According to Den Hartogh and Miller, this is what Walzer claims he is doing.¹⁵ However, according to Den Hartogh, it is not what Walzer actually does in his book and according to Miller, it is a highly problematic *modus operandi* on top of that. It is very difficult to determine the social meaning of a good *x*, and even if you can determine the meaning of *x* it is hardly ever the case that you can simply sort out a distributional principle that fits the social meaning of *x*.

A.

Although they question this approach, Den Hartogh and Miller agree that there are a few social goods for which their presumed Walzer method works exactly as it should. One of these social goods is love. In Miller's words, in the case of love 'there is a conceptual link between the meaning of the good and its principle of distribution, so that someone who proposed to distribute the good in another

¹⁵Den Hartogh 1999, p. 494; Miller 1995, p. 5.

way would in the most literal sense be failing to understand what the good in question really was. . . . Love that is not freely given—"love" that is bought or coerced, say—is by that token not the genuine thing'.¹⁶ In the words of Den Hartogh: '[I]t follows from the nature of love that it can only be given or reciprocated if it is felt, and if it isn't felt no reason why it should be felt can substitute for this absence'.¹⁷ Both authors thus agree that the Walzer method works in the case of love. However, they do not think this is relevant. In Miller's view the case of love is atypical for the following reason: as soon as you buy or sell love, whatever you are buying or selling is no longer the genuine article. Hence you cannot really invade the sphere of love as you can invade other spheres of justice, because after the invasion love would no longer be love. If money can buy medical care or education or political power, that is a problem, and that ought to be considered an illegitimate invasion of spheres. But if money seems to buy love, that is no reason for concern, because money will never be able to buy the real thing in the first place. Den Hartogh is even more explicit: in his opinion love is situated outside the domain of justice, it is not really a subject that a theory of justice should address.¹⁸

I think both authors overestimate the exceptional nature of love as a social good. On the one hand the distribution of love is not nearly as simple as Miller and Den Hartogh seem to think and on the other hand the distribution of other social goods is in certain ways just as straight and simple as the distribution of love.

Let us first try to complicate the matter of love. Falling in love and living happily ever after with the chosen subject is a fairytale vision of events that is rarely encountered in daily life. In real life one may seriously wonder whether the chosen subject is the right one. Can he be the right one if he is married to somebody else? Can he be the right one if one would have to sacrifice one's career in order to live happily ever after? Can he be the right one if he cannot or does not want to have children? After a history of unhappy love affairs one may seriously wonder whether it would not be better to make a sensible choice first and grow to love somebody gradually.

Now let us look at the other end of the equation. Somehow, putting all these complications aside, there is something very basic about the distribution of love. If you know nothing about A and B other than that they are utterly in love with each other, you are inclined to feel that they should be able to be together, if not till death separates them eventually, at least as long as their love will last. But this simplicity is not some weird eccentricity to be found exclusively in the sphere of love; it can be found in other 'ordinary' spheres of justice as well.

¹⁶Miller 1995, p. 5.

¹⁷Den Hartogh 1999, p. 245.

¹⁸Den Hartogh 1999, p. 507.

Compare:

Love

Simon and William both want to marry Brenda. Brenda loves William. She does not love Simon. Whom should she marry?

Medical care

Simon and William both need a doctor. Simon has sprained his ankle. William has a broken leg. Linda is a doctor. Whom should she treat first?

Higher education

Simon and William both want to go law school. Simon is a mediocre student. William is very talented. The recruiting committee has only one more place left. To whom should they give it?

Political power

Simon and William both want to become members of parliament. The voters have chosen William over Simon. Who should get a seat in parliament?

In most modern liberal democratic societies people would agree to choose William over Simon in each of the four cases. The same simplicity which we find in the sphere of love (of course she should follow her heart!) can be found when we think about the distribution of medicine, higher education and political power. I think the Walzer *modus operandi* as described by Miller and Den Hartogh (take a certain good, determine its social meaning and then deduct a distributive principle) is too sophisticated. When thinking about the four questions of distribution described above we do not first reflect on the meaning of love, medicine, higher education or political power in our society and subsequently derive an appropriate principle of distribution to answer the question. Our thought process is much more compressed than that. Our shared understandings generate instantaneous answers to these questions. We know the basic meaning of love, medicine, higher education and political power, and we know how these goods should be distributed. We can answer the four questions without any hesitation. There is no moral confusion at this level.

B.

Now let me try to complicate the issues while maintaining the original questions. Compare:

Complications in love

1. Simon is a native citizen in Brenda's home country. William is an illegal immigrant.

2. William is on welfare. Simon is a well-to-do lawyer who lives in a beautiful house.
3. Brenda has a history of falling in love with unfaithful, uncaring men. She has known William for four months. Simon is a kind man who has been in love with her for years.

Complications in medicine

1. Simon is a rich man who can be trusted to pay his medical bill on time. He may even be willing to put in some extra money. William on the other hand is an uninsured hobo.
2. Simon has sprained his ankle when he tried to rescue a child. William broke his leg while he was mountaineering in the Alps.
3. Simon is Linda's son. William is not related to her.

Complications in education

1. Simon wanted to be a lawyer for as long as he can remember. William has changed his mind about his future career a number of times and only recently decided to become a lawyer.
2. Simon's parents are rich and willing to pay for his education. William's parents are poor and could never pay for tuition fees.
3. Simon has one sister who is severely mentally retarded. His grandparents all died relatively young, before Simon was twelve years old. As a result Simon's parents were never very cheerful to be with. William has two younger brothers who are just as smart as he is. His grandparents are all alive. He comes from a very happy family.

Complications in politics

1. William is extremely rich and has spent a fortune on publicity. Many voters seem to have chosen him because his face was more familiar. The voters who chose for Simon are devoted to him because he has proven himself very trustworthy and decent throughout his career.
2. William is white and Simon is black. Blacks have been underrepresented in parliament for decades.
3. Simon is bald and has an unattractive face. William is generally considered extremely handsome.

These complications transform our easy questions into complicated moral puzzles like the ones we encounter in daily life. Pure pluralists and mitigated pluralists differ in their approach to these complicated moral puzzles.

Walzerian spheres of justice can be pictured as cones. At the bottom of each cone is a core principle: follow your heart in the sphere of love, distribution of medical care according to medical need in the sphere of welfare, distribution according to merit in higher education, distribution of political power

according to the voters' favour. All Walzerians, pure pluralists and mitigated pluralists alike, rely on the existence of these core principles. If a political community is so heterogeneous that its members do not agree on the core principles, its political theorists should not choose to practise Walzerian political philosophy. If we cannot or no longer agree on our answers to the first set of questions (the simple ones) we cannot and should not use our shared understandings as a basis for political philosophy. If many citizens would find that young men and women ought to marry husbands and wives whom their parents have chosen, if many citizens would say that doctors ought to treat rich or morally deserving patients first, if a substantial minority would like to distribute higher education according to need rather than merit, a Walzerian philosopher should count his losses and convert to liberal egalitarianism. Walzerian philosophy cannot be practised in a society in which the core principles are in disarray or in which consensus on core principles never existed.

However, if there is consensus on fundamental principles at the bottom of the cones this does not mean that there is no moral disagreement whatsoever. Higher in the cones all kinds of questions pop up. The list of examples of moral complications is ample illustration of that. Some of these questions cannot be solved by applying a theory of justice. I think that in the examples given above all third complications cannot and should not be solved by a theory of justice. Theories of justice cannot provide us with instruments to change character flaws which make people fall in love with the wrong men over and over again. Theories of justice cannot ask us to root out overriding loyalties completely. A theory of justice that would propose to equalize children's life chances by taking them away from their families would not attract much approval. Finally, no theory of justice could come up with a magic wand to render candidates for public office equally attractive.

The other moral problems mentioned in the list seem to warrant serious attention from a theory of distributive justice, though. Both pure pluralists and mitigated pluralists would address these issues. Pure pluralists would try to answer these moral questions by going back to the sphere-specific core principles. They would shape the questions in such a way that answers can be found by reflection on the right number of spheres, the proper location of social goods in the spectrum spheres and the boundaries between different spheres. Mitigated pluralists would take recourse to across-spheres criteria or overarching notions such as individual responsibility or equal citizenship. Sometimes mitigated pluralists and pure pluralists will come up with the same solutions, at other times they may differ.

C.

Let us reconsider the list of examples.

Love

Pure pluralists will try to honour the fundamental principle of love (follow your heart!) as far as possible. They will try to keep the sphere of love free from invasions from other spheres. Of course they realize that relative autonomy is the best they can aim for, but they will cling to sphere-specificity as best they can. True love should not be influenced by considerations from other spheres. If either William or Brenda is on welfare and the welfare regime states that people who are involved in a loving relationship lose their right to welfare because their significant other can support them from now on, then that could put quite a strain on a beginning romance. It is difficult to just follow your heart when there are many financial consequences involved in this decision. Pure pluralists would strive to keep the spheres of love and welfare apart. Similarly, they would try to disentangle the spheres of love and citizenship. If illegal immigrants get a residence permit when they marry a native citizen and lose their legitimate status when they file for divorce it becomes very difficult to keep love and citizenship apart.

Mitigated pluralists might come up with similar conclusions. They might also opt for a different strategy, though. They might argue that the fact that richer men and women stand more chance of finding a suitable partner in marriage is a major problem from an equal citizenship perspective. They might advocate a further equalization of incomes in order to remedy the differences between Brenda's two suitors.

*Medical care*¹⁹

The distribution of medical care provides a very good illustration of the differences between pure pluralists and mitigated pluralists. Pure pluralists and mitigated pluralists will agree on the core principle: medical care ought to be distributed according to medical need.²⁰ Differences of opinion come up when we are confronted with scarce medical resources.²¹ Pure pluralists would advocate a clearer separation of spheres. They would say that medical care ought to be distributed according to medical need, but that

¹⁹Contrary to Walzer I think medical care does not belong to the sphere of welfare. Medical care should be situated in a separate sphere of medicine, and should be distributed according to different criteria than welfare allowances (cf. Trappenburg 1997). In this article I will leave this question aside.

²⁰Liberal egalitarians usually argue that we should opt for a (tax financed or social premium based) basic minimum package of health care resources which should be available to all. People should be allowed to use their private resources to buy extra medical care on top of the basic package. Apparently, liberal egalitarians do not think that medical care should be distributed according to medical need, they think that citizens are entitled to a certain package of health care resources, which is something slightly different, e.g. Dworkin 1994; Daniels 1985.

²¹A legitimate question at this point is: where does this sudden scarcity come from? Are we supposed to spend a certain percentage of the gross national product on health care and no more than that? Does the amount of money spent on health care fluctuate depending on the costs of other social spheres? Unfortunately the Walzerian theory of justice (neither pure nor mitigated pluralism) does not generate answers to these questions. This is a serious deficiency.

we have to be very strict about what constitutes medical care and what classifies as a medical need. Thus, they might argue that grief, mourning or a troubled relationship can be very unpleasant but that these conditions do not thereby transform into medical needs. Hence marriage counselling and many forms of psychotherapy do not qualify as medical care. Nor do certain forms of cosmetic surgery, since being unattractive does not qualify as a disease either.²² Mitigated pluralists could advocate the introduction of some non sphere-specific criterion to regulate the distribution of medical care. Gutmann's proposal to give some room to individual responsibility and thereby introduce a fault principle in the doctor-patient relationship is probably their most promising strategy. Miller and Van der Veen's equal citizenship approach is less fruitful here. The equal citizenship criterion might frustrate all attempts to transfer some medical goods to the sphere of market and commodities (which is in effect what the pure pluralist solution would amount to), because such a transference would necessarily diminish equality between citizens.

Higher education

Pure pluralists and mitigated pluralists agree on the core principle of higher education: places in higher education should be distributed according to merit. Again they will disagree in their approach to real life moral issues higher in the cone. What is to be done when places are scarce²³ and certain social or ethnic groups seem to be underrepresented in universities? Pure pluralists would advocate a careful examination of entrance criteria: are they measuring academic merit or do they really measure something else? Is there not a bias in favour of certain social groups in the selection procedure? One can imagine all sorts of procedures that could create such a bias: asking candidates to do mathematical sums which are unrelated to the curriculum might create a bias in favour of male candidates who seem to be better in maths. Examinations may presuppose a certain inside knowledge of professional life that students from working-class families do not possess. Being interviewed by an all-WASP selection committee might be intimidating to non-WASP students. Pure pluralists would want to eliminate these kinds of biases in the selection procedure. They will also try to find out whether there is something unfair in the system of primary education. Do rich and poor children visit the same primary schools? Are rich parents able to buy better primary education for their children? The boundaries between the sphere of education and the sphere of money and commodities should be guided carefully in order to guarantee equal chances for all children. Instead of close boundary surveillance, mitigated

²²Trappenburg 1997.

²³Cf. note 30. The same goes for a limited number of places in higher education.

pluralists might advocate a reverse discrimination program, not only as a means to make up for past unfairness in primary education, but also because they think it is very important that lawyers, doctors and engineers form a representative sample of the population at large. From an equal citizenship perspective they may find it significant that all young people (male and female, rich and poor, black and white) can identify with someone like them who made it to the top. Mitigated pluralists realize that this will entail compromising sphere-specific criteria in higher education and thereby possibly compromising the students who benefit from the reverse discrimination program, but they think that progress in terms of equal citizenship will outweigh these disadvantages. It might be interesting to know just how far mitigated pluralists are willing to give up on sphere-specific criteria. Should university professors be allowed to give extra tutorials to disadvantaged students? Should they be allowed to give them slightly higher grades? Or do we reject the sphere-specific principle only at the entrance level? But why should we restrict reverse discrimination to the moment of selection? If a student is not as good as other students in terms of academic merit on first entering the university, this could mean that he will need all the extra help he can get.

Political power

The perspectives of pure pluralists and mitigated pluralists converge in the sphere of political power. Political power ought to be distributed according to the voter's favour. All voters should count equally, because the distribution of political power has everything to do with equal citizenship. The sphere of political power should not be invaded by market principles, one should not be able to buy the voters' favour. This means that one should not be allowed to buy votes literally, but it also means that candidates should not be allowed to buy votes indirectly by spending more money on publicity than everybody else. Being rich should not be a precondition for running for public office.

If certain groups are underrepresented in parliament this does not necessarily have to be a problem. Perhaps certain professional groups have such an interesting career that they will never consider trading it for a life in politics. Also, one can easily imagine scientists who cannot afford to spend a few years in politics because they will not be able to catch up with other scientists when they return to the lab. But if certain social groups (for example, women, blacks) just do not seem to make it to parliament no matter how hard they try, this indicates that we have to ask ourselves whether the political system is sufficiently open. Do political parties welcome all citizens as political candidates or not? If not, is it possible for citizens to start a new party and is it likely that such a new party will ever win a seat? If countries have chosen to have a majority system or

proportional representation with a high electoral threshold and certain social groups remain severely underrepresented despite their efforts, this may be a reason to change the system. One might consider introducing elements of proportional representation in a majority system, one might lower the electoral threshold, try to equalise candidates' chances during campaigns, and so on.

The examples of love, medicine, higher education and political power have hopefully given a rough impression of the differences and similarities between pure pluralists and mitigated pluralists. Both pure pluralists and mitigated pluralists start with the identification of sphere-specific core principles. Armed with these core principles they can reflect on concrete institutional arrangements. Does the institutional structure regarding the distribution of medical care reflect our core principle medical care according to medical need? How does our primary school system relate to our core principle concerning the distribution of primary education? Is our college admission system defensible given our core principle concerning the distribution of higher education? And so on. Pure pluralists and mitigated pluralists can be ranged on a continuum depending on the sort of demands they make on the institutional arrangements in their political community. On the left hand we find pure pluralists who think that institutions should mirror sphere-specific core principles as closely as possible. Somewhat further to the right we find pure pluralists who think that institutional arrangements should at least not violate sphere-specific core principles (they may argue that a national health service is the best way to guarantee the distribution of medical care according to medical need, but they are willing to accept a different system—for example, a social premium based sickness fund system combined with private insurance for well-to-do citizens—as long as this does not infringe on the principle of medical care according to medical need). Still further to the right we find mitigated pluralists who think that institutions should be in accordance with sphere-specific principles except in cases of ambiguity in our shared understandings. On the utter right hand of the continuum we find mitigated pluralists who feel that we should uphold sphere-specific principles as long as this is desirable from an overall point of view (for example, from an equal citizenship perspective).

We might consider extending the continuum with a position even further to the right, which is defended by Mickey Kaus. Kaus advocates the creation of public domains in order to further equality among citizens. He argues that American society has become ever more deeply divided and he thinks that diminishing income inequality is not the best way to remedy this. Instead he maintains that it might be good for rich and poor citizens to meet one another in public institutions: in hospitals, daycare centres, neighbourhoods and on parents' evenings at schools. In Kaus's view Americans should aim for universal coverage in health care, not because medical care should be distributed according to medical need (Walzer's

sphere-specific core principle), but because an American national health service might be a truly democratic institution that could foster equal citizenship.²⁴ I would hesitate to call Kaus's position mitigated pluralism since it no longer refers to existing sphere-specific shared understandings which we should respect more or less. Instead Kaus seems to invite his fellow citizens to *invent* new public spheres and accompanying principles so as to foster community feelings.

D.

So far I have outlined the problem-solving approach of pure pluralists on the one hand and mitigated pluralists on the other. I have shown that there are two types of mitigated pluralism: the multiprinciple approach of Gutmann and Den Hartogh and the equal citizenship approach of Miller and Van der Veen. The former cannot really compete with pure pluralism because it is, in my opinion, too vague to be classified as a theory of justice. The latter fares better in this respect. I have tried to test the problem-solving capacity of pure pluralism and mitigated pluralism by trying to work out solutions for problems in love, health care, higher education and political power. Did this exercise result in a clear victory for either theory? I do not think so. I must confess that I myself would prefer the solutions generated by the pure pluralist approach, but I may be biased and, more importantly, my selection of social goods may have been biased. Perhaps the score would have been different if I had chosen to reflect on the distribution of offices, jobs and welfare allowances. Of course the choice between two theories of justice will always contain an element of subjectivity. Still, we should be able to do a little better than just listing the outcomes of certain distributive moral puzzles and then choosing whichever theory happens to concur with our own intuitions or preferences regarding these particular puzzles.

In the next section I will try to approach the choice between pure pluralism and mitigated pluralism from a different angle. I will paint a picture of each theory and try to formulate a criterion to help us make a choice. I will use the work of Jon Elster and his 'local justice research group' in order to do this.

VI. PRIMARY AND SECONDARY ROLES

In the early 1990s Jon Elster initiated a research project to investigate 'practices of local justice'. His aim was to find out how institutions 'allocate scarce goods and necessary burdens'. The institutions under investigation were not political bodies such as parliaments and cabinet councils. According to Elster, parliaments and cabinet councils deal with overall justice or overall efficiency. Following Calabresi and Bobbitt,²⁵ Elster calls these and similar institutions first-order

²⁴Kaus 1992.

²⁵Calabresi and Bobbitt 1978.

actors. Elster meant to find out what distributional criteria are used by so-called second-order actors, institutions dealing in local justice: organ transplant coordination offices which have to decide on the distribution of kidneys and livers, college admission boards, personnel officers who have to regulate lay-offs, army officers charged with the implementation of demobilization schemes, and so on.²⁶ The local justice research group found a bewildering multitude of distributional arrangements and criteria. Certain patterns concur with Walzer's sphere-specific core principles (many places in universities are distributed according to scientific merit, many livers and kidneys are distributed according to medical need). Other distributional decisions differ markedly from what might have been expected in a particular sphere of justice (college admission boards sometimes favour children of former students; considerations of efficiency are taken into account by organ transplant committees). In *Local Justice*,²⁷ the theoretical outline for the research project, Elster reflects on the nature of sphere-specific rules of distribution. He refers to Walzer's sphere-specific core principles as 'rules of equity'. Elster's empirical research has shown that these rules of equity are applied in a number of distributional decisions, but, unlike Walzer, Elster does not think we should be very pleased about that:

I think Walzer may be mistaken in identifying [the inner logic of spheres] with the common understandings of the *citizens*. The principle that medical care should be proportionate to ill health and not to wealth is certainly held by many health professionals. To treat the sick is the natural telos of their profession, just as to teach the talented is the natural goal of the teacher. It is not at all clear to me, however, that the citizens in general share this view. It seems at least as plausible that the citizens are mainly opposed to great inequalities of income, and not to the idea that those who earn more can use their money to buy more and better treatment or education, provided they bear the full costs of the extra resources . . . [I]t seems to me that what Walzer captures in many of his examples is the attitude of the professional dispenser of goods ('the teacher's honor'), and not necessarily that of citizens.²⁸

Elster argues that what Walzer believes to be our shared understandings (our sphere-specific core principles) are not truly ours. In essence, according to Elster, they are the distributional norms of professional elites. At some other point in his book Elster qualifies this position.²⁹ He there tries to relate criteria of justice to levels of distribution. According to Elster, political first-order actors (parliaments and cabinet councils) are motivated by overall efficiency. They have to answer to a multitude of different groups representing all kinds of interests, and the most sensible thing a politician can do seems to be to take all these interests into account and weigh them carefully. Second-order actors are not driven by overall efficiency, they are motivated by equity (sphere-specific principles). Elster distinguishes a third-order level, the level of the potential recipients of the

²⁶Elster 1992; Elster and Herpin 1994; Elster 1995.

²⁷Elster 1992.

²⁸Elster 1992, p. 146.

social goods distributed by the second-order actors. These ordinary citizens are driven by self-interest. Lastly, there is the level of public opinion, ordinary citizens again, but this time not in their role of potential recipients but as spectators and commentators of the distributional arrangements. According to Elster, public opinion is first and foremost driven by equity ('inequity has a high scandal-arousing potential'³⁰).

In this enumeration there is a remarkable similarity between the second-order actors and public opinion. Apparently, according to Elster, both parties are driven by considerations of equity, that is, by sphere-specific core principles. What are we to make of that? How does this analysis relate to Elster's other observation that sphere-specific principles are typical for second-order actors and should not be mistaken for citizens' shared understandings? I think that Elster's exposition captures an important truth about moral life, which may also help us to get a firmer grip on the differences between pure pluralism and mitigated pluralism. Elster's exposition teaches us that our moral judgement on issues of distributive justice depends on the role we have to play. If we are to judge a situation of medical scarcity, for example, which of two patients should be operated on first after a car accident, we judge differently depending on the role that we are assuming. If we happen to be one of the victims or if we are closely related to one of the victims, we will probably be driven by plain self-interest. We will not care about any criterion of justice, we just want to be operated on as soon as possible. In terms of Elster: we will be third-order actors. If we are not related to the victim and we have to judge the situation out of hand, we will tend to go along with the doctor: we will ask him to treat the patient whose condition is worse, and urge him to save the man's life. We will then represent what Elster calls public opinion. However, when we are asked to look at the matter from a broader perspective, to judge *as good citizens*, chances are that we may come up with certain other considerations that the doctor would consider completely irrelevant from a medical point of view. We may ask whether one of the patients was drunk, who caused the accident, which of the two patients was more worthy to be saved, and so on. If we are asked emphatically to judge a situation as citizens, we will tend to resemble first-order actors, we will be like our chosen political representatives.

This distinction helps us to locate the difference between mitigated pluralism and pure pluralism. Our judgement as third-order actors is not a proper moral perspective. As third-order actors we are creatures in need, driven by plain self-interest. However, the two other roles for citizens implicit in Elster's typology, our first sight moral judgement and our judgement as citizens, can both be characterized as moral points of view. They represent respectively the point of view taken by pure pluralists and mitigated pluralists. When we have to answer a question of distributive justice, when we have to think about institutional

³⁰Elster 1992, p. 182.

arrangements in society, mitigated pluralists argue that we should answer as citizens. In terms of van der Veen, people should ‘primarily engage in [discussions about distributive justice] from the general point of view of citizenship, rather than in their more specific roles of businessmen, welfare clients, soldiers or schoolteachers. It is as politically equal citizens that they are best placed to articulate the social criticism of dominance and inequality, given general information and personal experience on what passes in the distributive domains of society’.³¹

Pure pluralists on the other hand will argue that we are parents, schoolteachers, doctors, nurses, patients, businessmen and welfare clients first. According to pure pluralists, questions about distributive justice or institutional arrangements should be considered first and foremost by taking these particular points of view seriously. We may answer as parents, students, workers and businessmen (if we do not know these roles from personal experience, we will usually have friends, family members or neighbours who do). When we have to reflect on the proper distribution of medical care, pure pluralists do not ask us to invent a system of distribution that answers to criteria of overall efficiency. Pure pluralists do not ask us to adopt a particular role, they will take for granted that we will look at health care issues as potential patients. As Elster writes on the ethics of medical choice: ‘Doctors . . . represent extreme versions of a deeply held medical value, according to which the personal relation between doctor and client is the core of medical practice. The doctor is not a rational, impersonal dispenser of scarce goods and scarce expertise, but an individual who responds to the needs and sufferings of another individual. Most of us support this value because we know that if we ever need a doctor, this is how we would like him or her to treat us’.³² Likewise we will think about the educational system from the perspective of students, teachers, and parents of pupils. And likewise we will think about churches as religious believers or parishioners, and if we happen to be irreligious ourselves we will be reluctant to judge about churches at all. (Mitigated pluralists might consider holding churches to a general equal citizenship morale and argue that the next pope ought to be a woman. Pure pluralists would argue no such thing. If they wanted to make a case for a woman pope, they would refer to sphere-specific reasons regarding the division of divine grace, such as biblical imperatives or theological dogma.)

Does this mean that pure pluralists do not see any role for politicians in a Walzerian society? Of course not. Spheres of justice can only remain separate if there is a robust political sphere that keeps them apart. The sphere of money and commodities is imperialist by nature and if politicians do not guard its boundaries it will tend to creep up in many other spheres of justice. Does the pure pluralist perspective imply that politicians will never do anything other than

³¹van der Veen 1999, p. 248.

³²Elster 1995, p. 309.

guarding boundaries and settling boundary disputes? Is there not any role left for an overall citizenship judgement? Do pure pluralists think we can stick to our judgements as welfare clients, potential patients, parents and businessmen without ever having to function as real citizens? Not necessarily. According to pure pluralists, an overall citizenship perspective is needed in times of crisis: when the country is at war, when we are going through a severe economic depression, when we are hit by earthquakes, floods or environmental disasters. In those circumstances we cannot afford the luxury of local autonomy in societal spheres. We have to fall back on our role as citizens. Citizenship is, in terms of van Gunsteren, 'a reserve circuit to be activated in unstructured situations of emergency when the normal institutions of the republic cannot function as usual'.³³ To take medical care as an example once more. In times of war, when doctors have to provide medical care to wounded soldiers on the battlefield, we may decide to adopt a triage system. Doctors will divide patients into three groups: those who will probably manage without medical help, those who are hurt so badly that they might die even with medical help, and those who can profit from medical assistance, who may be back on their feet with a little help. The triage system prescribes doctors to help the third group first. From a broad citizens' perspective, for the sake of the country, from an overall point of view, a triage system seems the most sensible way to distribute medical assistance in times of war. We can imagine other violations of the normal distribution of medical care in times of severe economic depression: under those circumstances it might be wise to give preferential treatment to those patients who can get the economy back on its feet. However, according to pure pluralists, we should not adopt such a broad citizen's perspective when we have to decide on daily issues of distributive justice or when we have to design institutions for ordinary times. Because we care about our core principles of sphere-specific justice and want to keep them alive as much as possible. Because our roles as parents, teachers, welfare clients, businessmen and employees are close to our skin, are familiar to us and can therefore guide us much more naturally when we have to think about moral problems in society. And lastly, because it is worthwhile to have a reserve circuit to be used in times of crisis. If we use our citizenship norms and discourse every day for ordinary moral puzzles, as mitigated pluralists would have it, we will no longer be able to fall back on something different in times of crisis. A complex society can do with two moral systems, one for daily use and a spare one to be used in emergency situations. That is the pure pluralist wisdom hidden in *Spheres of Justice*.

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³³van Gunsteren 1999, p. 111.

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