

David Schmitz, *The Elements of Justice*. Cambridge, England: Cambridge University Press. 2006. ISBN 0-521-53936-6, \$32, Pb.

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Since his first book, David Schmitz has combined great freshness and clarity of writing with original and sophisticated theory. *The Elements of Justice* continues the tradition he has established for himself.

From Schmitz, one might expect a theory of justice, basically along libertarian lines. The book may surprise, though not disappoint, for that is not quite what one would find. Instead, the title is apt. Schmitz says that there is a terrain of justice, the terrain of what people are due, and it has a certain kind of unity:

What we call justice is a constellation of somewhat related elements. I see a degree of integration and unity, but the integrity of justice is limited, more like the integrity of a neighborhood than of a building. A good neighborhood is functional, a place where people can live well. (p. 3)

Justice, too, is functional, a neighborhood in which people can live well together. What Schmitz offers are the pieces, the elements, that comprise the neighborhood of justice. There are separate analyses, explorations, investigations—which may or may not add up to a unified theory. We have the elements, not necessarily the full pattern into which they fit.

That may seem unsatisfying, but Schmitz very attractively makes a virtue of it. The root idea is that a theory is a map of some terrain. Some maps are better than others, and even for the same terrain, the best map for one person's purposes may not be so useful for another's. We do not all have the same purposes or the same problems to solve, so we do not all need the same map. Maybe we will have different partial maps. Maybe our maps will highlight different features. And maybe they will be none the worse for that.

A theory of justice is an attempt to map the terrain, the neighborhood, of justice. Of course, it concerns what people are due. But what is that? There is not going to be just one answer. There are different problems, different situations, where we wonder what people are due. It makes sense that

sometimes one consideration, sometimes another, will determine the answer.

Schmidtz presents some of the different considerations that belong on the map. He thinks they fit together, more or less. However, he does not think that some one among them is the most basic, so that each of the rest must either be reduced to it or else discarded. Nor does he claim that these are all the elements of justice. Perhaps there are more. Or less: perhaps our maps do not carve the nature of justice at its joints; there might be more illuminating ways to count and classify the elements we have.

The elements to which Schmidtz directs his attention are desert, reciprocity, equality, and need—elements which themselves turn out to incorporate complexity, with “at least two kinds of deserving, three ways of responding to favors, and two dimensions of equality, plus a complex hierarchy of needs.” (pp. 27-8) For each element, he engages in sharp analysis and often finds the unexpected. He has a knack for examining what everyone else takes for granted and finding it to be less than obvious.

The complexity, and the focus upon elements as much as or more than upon overall patterns, makes summary difficult. Instead, to communicate something of the flavor of the book, two examples will be presented, and something will be added about the concluding section on Rawls and Nozick.

An example of Schmidtz’s approach, and of the surprising things it may turn up, can be found in his treatment of the commonplace that a person cannot deserve her native endowments or the circumstances into which she was fortunate to be born. He asks whether that is really so, and answers that it is not. When we talk about desert, there is an implicit appeal to some kind of appropriate balance. On one side, there is what is deserved; on the other, there is the person’s input, what she does to deserve it. In the case of rewards and punishments, the input has to come first. That is why it seems natural to suppose that such advantages as native endowments cannot be deserved. There is nothing the person could have done first. However, Schmidtz suggests, this is the product of a hasty over-generalization. Rewards and punishments do not provide the only cases in which we think people deserve something. We also have the notion of people who deserve a chance or an opportunity. How do we know they deserved it? By what they do with it after they get it. What they do may show they deserved it. She who deserves a chance may make full use of it, once she gets it. Thus, it is not necessary to earn or deserve advantages before getting them in order to genuinely deserve them. For an advantage or benefit to be deserved, the equation must be balanced, but the balancing input does not necessarily have to be supplied in advance. And if we have been fortunate in our native endowments or circumstances, we may still put them to good use and thus show that we deserved them.

For another example, Schmidtz considers the widely accepted argument—accepted even by Nobel-Prize-winning economists, as he points out—that the diminishing marginal utility of wealth provides a reason for equalizing its distribution. The idea is that if the wealthy would get less utility from a given unit of wealth than the poor, then, in principle, total utility could be increased by transferring that unit from the wealthy to the poor. Of course, “in principle” covers many complications in practice, including incentive effects and the costs of arranging the transfer. The complications may entirely swamp any rationale for the transfer. But Schmidtz focuses on a pure and uncomplicated case to make the point that the argument omits production. In a world in which production is possible, it may be important for assets to be controlled by those who get less utility from them and who would therefore rather invest than consume them. Since assets invested in production can yield greater future utility, overall utility may be promoted by not making the transfer—even when complications are absent. Production can make a difference, and production is not a mere complication that can legitimately be assumed away, if we wish our theorizing to be relevant to the real world. This is not, and Schmidtz does not suppose that it is, an argument against all redistribution, but it is an important reminder that equalizing wealth, even in the simple and pure case, is not necessarily utility-

maximizing.

These are typical of the many justice-related issues that Schmidtz examines. The book is filled with surprising claims, fresh analyses, new perspectives and interesting arguments. In the final part, we have something a bit different, but no less fresh or original. The section could be described as a tribute to the work of Rawls and Nozick, but not in the sense of uncritically praising their work or defending their positions. It hardly could be, given their disagreements with each other. Instead, Schmidtz recognizes their work as framing “the landscape of political philosophy in the last decades of the twentieth century,” (Charles Fried, quoted on p. 3) and he subjects some of their central positions to examination which is both critical and sympathetic. Reading Schmidtz’s treatment reminds us not only of where Nozick and Rawls differed but also of how much they had in common, especially in their concern to recognize the separateness of persons and to embody that recognition in their political philosophies.

Much more could be said about this fine book; much more needs to be said about its various parts. Though it defies easy summary, it is filled with interesting argument and, over and over, provokes questioning, insight, further thought, and, sometimes, disagreement. Spending time with it, whether one agrees or disagrees—or, more likely, does both in part—is bound to be intellectually rewarding. That, it may be suspected, is what Schmidtz most wants us to take from it.