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## Human Well-being and Public Provision†

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Without civic morality communities perish; without personal morality their survival has no value. (Bertrand Russell, *Authority and Individual*)

### 1. Introduction: The Place of Human Well-being for Public Institution

Any public institution aims at properly recognizing and realizing people's claims in society. And one of the main tasks of normative theories of public institution lies in articulating public morality, which includes the principles and forms of the proper treatment of those claims.<sup>1</sup>

In articulating this public morality, we have to beware the fact of reasonable pluralism in modern society.<sup>2</sup> People have various claims and related interests in their thinkings and doings which may be complex and conflicting. If this diversity is inevitable, public institution and its normative theory also have to be responsive to it.

However, to establish this moral sensibility is not easy. One typical example in this respect is welfare aid. Each individual has her own physiological and psychological conditions: when she has some kind of disease or handicap, the

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† This essay is an English recapitulation, with some revisions and complementary remarks, of the central claims in my book on justice in Japanese, "Kousei no Houtetsugaku [Fairness and Philosophy of Law]", published in 2001, in terms of the human ideal for institutional aid. For this recapitulation, I was much encouraged by the conversations with Professor Jonathan Wolff at University College London. He gave me a variety of stimulating suggestions, while I stayed in UCL in the 2002/03 academic year. I am much grateful to his kindness. Also I thank Ms. Hyunjoo Naomi Chi, a doctoral candidate in the School of Law at University of Hokkaido, for her help in editing.

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<sup>1</sup> By public morality I understand a certain set of normative principles which regulates various public provisions especially in the form of law. Contrast to this morality, I think private morality or ethics as a certain set of prescriptive principles which guides personal activities. Although the distinction between the two is sometimes not quite clear, public morality is concerned basically with the social setting for the individual activities based on private moralities.

<sup>2</sup> Rawls, *Political Liberalism* (Columbia U.P., 1993), p.63f.

content and degree of her disadvantages vary relative to her own circumstance. Thus, when the government or other organizations try to deal with welfare aid, they need to hold sensible and adequate concerns for the particularities of those in need. Still, it is not so evident that the government or other organizations may guarantee any aid for the needy. For, not only are there financial and human limits for welfare aid, but also it is controversial in principle whether and to what extent the government or other organizations should aid all the needs people can demand. There should be certain room for self-help or be the limits of paternalistic interventions.<sup>3</sup> The central question to be addressed is how we may be *publicly* responsive to particular needs.

When we think about the working of public institution, we have to beware of several characteristics in our perspective. First, public institution has to work in *public stance*; second, public institution has to hold *public value*; and third, public institution has to maintain certain *public structure*.

Public stance is the perspective which constitutes and regulates the spaces for every member of society to perform various activities. Since it is a natural fact that human society necessarily tends to generate conflicts among its members, due to the fact of reasonable pluralism, it is also a natural fact that human society necessarily forms certain institutions which aim at resolving those conflicts in socially adequate ways.<sup>4</sup> And this social resolution requires a general abstraction from the particular benefits of particular members in society. This resolution has to be impartial to anybody in society who may have similar interests. Of course, this public stance may include various types. It might be authoritarian, aristocratic, as well as democratic; but I simply assume here that it is democratic, which means that in modern society we need the accountability with a set of reasonable justifications for institutional resolutions in public stance.<sup>5</sup>

The necessity of reasonable justifications leads us to the significance of public value for underpinning public institution. People in modern society hold divergent values for their own unique lives. Any religious or ethical views are, in principle, to be tolerated in modern society. However, these divergent views are within a certain

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<sup>3</sup> We have here the question of freedom and individual responsibility. Although I don't think that they are values to be respected only as libertarians believe, they are still important ones to be taken into account for modern social life.

<sup>4</sup> Of course, how this is formed is a question which needs further examination: by convention, contract, or revolution? However, here, I put this question aside.

<sup>5</sup> This point is related to my own moral view that we should endorse egalitarian liberalism. See later in this essay, Sections 2, 3.

limit of reasonableness. These views should not overtly suppress or infringe with each other and they should be equally promoted to flourish to make human lives richer. And if the functions of public institution are related to the regulation and promotion of divergent values, the background value for this institution itself has to be publicly shared one among divergent people. In this respect, public value has a different character from private value. The formal point for public value has to be detached or non-agent-related, socially embracing, and interactively ordering among divergent private values.<sup>6</sup> It aims at regulating inter-agent relationships, thus, is concerned not with solving the ethical problems internal to people themselves but rather with facilitating necessary and decent conditions for the activities of people in society.

The relative detachment of public values imposes certain characteristics on the structure of public institution. If public value regulates divergent claims through public institution, this institution has to arrange these claims in a certain ordering. Even if it cannot yield the absolute ordering due to the heterogeneity of claims in question, it needs an arrangement among them to maintain and promote an adequate social order. This relative ordering has to have formally at least three important aspects: *width*, *depth*, and *mode of regulation*.<sup>7</sup> The width of public institution is concerned with how broadly it should give supports for divergent claims of people; the depth of public institution is concerned with to what degree it should give support for each legitimate claim of people; and the mode of regulation is concerned with by what kind of enforcement it should give supports for people. For these three aspects, there is a spectrum between the broad, thick, and strong structure and the narrow, thin, and weak structure; and to find a proper set of those aspects is the main task for a normative theory of public institution.

I should add in this regard about the importance of law for the construction and working of public institution. It is sometimes imagined that we need public rules for the working of various institutions in society and thus is sometimes maintained that those rules are to be instrumentally determined according to public decisions by the people in society. From this perspective, what is called law is nothing but these public rules, which are to be democratically determined; and, if we characterize this law in somewhat substantive manner, this will unnecessarily make law a metaphysical

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<sup>6</sup> Ko Hasegawa, *Kousei no Houtetsugaku* [Fairness and Philosophy of Law] (Shinzansha, 2001), p.75ff, p.80ff., Also, cf. Shelly Kagan, *Normative Ethics* (Westview Press, 1998), p.17ff.

<sup>7</sup> Public institution has a three-dimensional structure, except for another important dimension of relations in time.

entity. However, I maintain that public rules need certain valuational substance, if they have to embody certain public values for their workings; and that, if this kind of substantive public rules should be enforceable in various ways, it should be called law. In this respect, the concept of law is not so restricted as ordinarily assumed. Rather, I understand law to be the combination of political morality, statutes, and social convention. This is law in a broad sense.<sup>8</sup> Political morality is a part of law as the basic guideline of statutes. Statutes are law in a narrow sense. Social conventions are law at the level of tacit social knowledge. My point here is that law is not limited to statutes and precedents as the positivist understanding of law usually assumes. I think that the law is itself a comprehensive social order; law in this broad sense is itself the set of shared public values. Thus, public stance with public value is itself to be expressed as normative considerations for the construction of law in this broad sense.<sup>9</sup>

This outlook on the publicness of law has another important point to be stressed: that law is public order implies that its working is always *general* in its width, depth, and mode of regulation. The issues dealt in law should be socially identifiable and soluble ones. Of course, we have serious controversies on the limits or the potential of law in several boundary issues, such as racism, sexism, animal rights, or global warming. Regarding these issues, the scope and role of law is heavily debated: to what extent law can save the harms arisen in those cases is the limiting case for the working of law in a public setting. Still, my point here is simply that when we think about the forms of public institution as law in a broad sense, we have to be aware of the limits of the reach of exemption, aid, or remedy for individuals. For example, while it is truly important to give maximal educational aid to children in social care, we always have to think about this possibility in a generalized way. That is, we have to aid various children in an equal way. If so, the background idea for this aid cannot be a specific expectation for the development of a particular child but rather be some abstract value on the general types of education for all the children in need.<sup>10</sup>

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<sup>8</sup> This is a Dworkinian view. Cf. Ronald Dworkin, *Law's Empire* (Harvard U.P., 1986), ch. 7.

<sup>9</sup> What I would like to emphasize here is the primacy and importance of normative considerations in law and politics, as the logical nature of our normative thinking. In other words, even if it is surely evident that positive laws are some instruments for social change, the idea of law (or the law) is always the normative foundation for such law-making, adjudication and other related governmental or non-governmental activities.

<sup>10</sup> This does not mean that we do not need specific considerations for a particular individual in some form other than law. Also, it does not mean that we do not need even some legal considerations on specific aid. I am simply talking about the general requirements of law.

This point on the generality of law should not be taken as law's ungenerosity. It is important here to recall the spirit of modern constitutionalism. As Ronald Dworkin eloquently argued, the point of law lies in securing the significant rights of individuals against the tyranny of majority or the goal-directed considerations of social interests.<sup>11</sup> This is usually understood as emphasizing the priority of individual liberty in public considerations. Yet, it should not be neglected that the importance of the protection of individuals may also include the concern for decent living of individuals.<sup>12</sup> The tradition of liberal constitutionalism in modern society has been caring about the broader security of the subsistence of individuals.<sup>13</sup> Thus, in our problem context, law's generality can imply the public concern for individual circumstance which tends to be neglected by social considerations. In this regard, it may be understood even as an aspect of moral education for mutual respect.<sup>14</sup>

Now, a normative theory for public institution has to shape these characteristics and aspects in a well-balanced way by a certain valuational axis. Apparently, what this normative axis should be has been the fundamental question in the recent development in theories of justice, especially concerning the issue of "equality of what". Under this heading, modern theories of justice such as utilitarianism, liberalism, libertarianism, or even communitarianism, may be taken into consideration for exploring a better view.<sup>15</sup> This debate cannot be concluded with simple ideological claims. Rather, to argue for whichever favorable standpoint, a position is to be determined by a view of *human well-being* which public institution can aim at realizing.<sup>16</sup> As mentioned earlier, this is significant in finding a proper balance among the width, the depth, and the mode of regulation for public institution.

I myself wish to endorse an egalitarian standpoint for the proper working of public institution. I basically take egalitarian liberalism as more promising than any other positions.<sup>17</sup> Still, even within this strand of liberalism, there are several types

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<sup>11</sup> Cf. Ronald Dworkin, *Taking Rights Seriously* (Harvard U.P., 1977), chs. 4, 7.

<sup>12</sup> Cf. Ronald Dworkin, *A Matter of Principle* (Harvard U.P., 1985), ch. 9.

<sup>13</sup> Stephen Holmes, *Passions and Constraint* (Univ. of Chicago Press, 1995), ch. 8.

<sup>14</sup> I owe this emphasis to an insightful suggestion by Prof. Reiko Gotoh at Ritsumeikan University.

<sup>15</sup> E.g. Amartya Sen, *Inequality Reexamined* (Harvard U.P., 1992), ch. 1. Also, cf. Will Kymlicka, *Contemporary Political Philosophy* (2<sup>nd</sup>. ed.) (Oxford U.P., 2002), p. 1ff.

<sup>16</sup> Here human well-being is not limited to a narrow conception of preference satisfaction, of happiness or of welfare. What is this something broader is the question in this essay. Cf. Daniel Hausman and Michael McPherson, *Economic Analysis and Moral Philosophy* (Cambridge U.P., 1996), Part III.

<sup>17</sup> Hasegawa, *op.cit.*, p. 143ff., p. 181ff.

of ideas for equality such as resource equality, capability equality, equal opportunity for welfare, equal access to advantage, or social equality.<sup>18</sup> At this level again, a key for further exploration lies in the view of human well-being.

Relevant here is the illuminating distinction between *equal treatment* and *treatment as equals*.<sup>19</sup> Equal treatment means that everyone is to be treated in a flat way in any contexts, while treatment as equals does not necessarily mean such a flat treatment. The latter idea is intuitively clear at some abstract level, and is significant because of its sensibility for substantive equality in various contexts. However, the deeper question is naturally how we can attain treatment as equals, which is very important for us to get a clearer idea of its realistic potential in our lives. Understanding the significance of treatment as equals is connected to articulating a view on human well-being. Although the concept of human well-being is difficult to interpret, we will be able to capture the core of it if we establish a certain view of philosophical ethics. The basic question for philosophical ethics is how one can live a decent life, which is a perennial one for any ethical theory. Yet it is significant for us to explore some view of it, even if not complete.

My main task in this sketchy essay is, thus, to articulate a conception of human well-being for the working of public provision, especially with regard to welfare aid, in which the significance of treatment as equals is anticipated to be the most evident and urgent.

## **2. Self-formation and Equal Access to Moral Independence**

In the course of life one has various experiences: joy, misery, hope, despair, luck, hardship, sorrow, empathy, hate, anxiety, madness, construction, destruction, fragmentation, integration, frenzy, suppression, arrogance, humility, vanity, sincerity, selfishness, charity, friendship, insult, attachment, frivolity, dogmatism, beauty, ugliness, dissipation, reason, or death. One often feels divided within oneself: there are many factors which push or pull one to different directions in her thinking and doing. The modes of these experiences are divergent, which are also multifariously succeeded by next generations; they also include certain limitations under various resources or circumstances. However, most people try to live for certain objectives, though some of them have to live merely in the burdens of lives with few hopes.

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<sup>18</sup> E.g. Stephen Darwall, ed., *Equal Freedom* (Univ. of Michigan Press, 1995); Louis Pojman & Robert Westmoreland, eds., *Equality* (Oxford U.P., 1997), Part IV.

<sup>19</sup> Dworkin, *A Matter of Principle*, p. 190f.

Some might be able to live quiet and peaceful lives, while some might live hard lives. Or, a peaceful life might radically change into a hard life, while a hard life might gradually calm down to a peaceful life. Further, one can live not only for oneself but also for others. Some people might devote themselves even only to saving others in urgent need. These life experiences are not captured by only one pattern: this is the fact of reasonable pluralism concerning individual lives, which must be the starting point for considering the significance of human well-being.

With this recognition of plurality, human being is to be regarded as *homo complicatus* and also as *homo conflictus*. Human being is *homo conflictus*, because her thinking and doing are motivated by various emotional factors as exemplified above.<sup>20</sup> These factors make a web of one's motivations with complex interaction, and, in a vector-like way, orient one's thinking and doing toward a certain direction. Of course, this does not necessarily mean that human being cannot think and act from a simpler motivation, such as self-interest, passion, or inspiration. However, even if there appears some simple motivation, there is still more complex working of various factors at its background. In this complexity, human being has to face a variety of conflicts. She is, in this regard, *homo conflictus*. Human subsistence itself is an arena of inner conflicts: various motivational factors may conflict between, say, reason and passion, or self-interest and integrity. Further, there are also conflicts with others: different individuals live with different values and interests in, say, their life-styles or religious beliefs. Conflicts with others tend to be more difficult to solve than conflicts within oneself, since the former needs the congruence of different ethical views.<sup>21</sup>

If human being is *homo complicatus* and also *homo conflictus*, cannot her life but be fluctuating and indeterminate? I think not; I believe rather that in whatever form and mode an individual tends to live her own life by pursuing something important. It might not be an easy way: life can be contradictory, discontinuous, or fragmented. However, I believe that one never enjoys such a life, and that one tries to make her life meaningfully consistent, as much as possible.<sup>22</sup>

When one tries to pursue a certain meaning of her life under the condition of complexity and conflicts, there should appear a certain ethics in oneself. In holding ethics, one tries to explain and justify her thinking and doing in life, and to overcome the pressure of reality and fate. Ethics, in this regard, is a set of private norms, and

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<sup>20</sup> Cf. Iris Murdoch, *The Sovereignty of Good* (Routledge & Kegan Paul, 1970), p. 88ff.

<sup>21</sup> Stuart Hampshire, *Morality and Conflict* (Harvard U.P., 1983), ch. 7.

<sup>22</sup> Cf. Murdoch, *op.cit.*, p. 92ff.

guides one's life in the best possible way. Yet, ethics is divergent as it is employed by individuals with their particular lives. Realism, skepticism, hedonism, deontology, teleology, perfectionism, pragmatism, situational ethics, particular religious beliefs, relativism, opportunism, or even nihilism ---- human beings may hold many kinds of ethics. Ethics people hold may converge, and yet it will be partial. As far as individual lives are divergent, ethics can also be divergent. Within a reasonable boundary, there is no particular right ethics. There are various distinctive points in any of those ethics. This is the fact of human life.

When we recognize the diversity of human life, we cannot seek the core of decent life in a particular mode of life or of personal ethics. A particular life or ethics has unique significance only for a particular individual. No one has the privilege that her ethics is the best of all in social setting. However, when we think about it, we find a deeper fact that living in a certain decent way itself has an intrinsic value for human being, regardless of its various substances. Even if it is fluctuating, frivolous, or even seemingly meaningless, everyone lives somehow to try to develop her life. This is itself the ultimate fact for human being, and also itself to be the ultimate ethics for anyone. This view involves a flavor of perfectionism. Because this view presupposes the fact that people tend to pursue the better standard of life lead by various objectives, even if gradually. Still, the perfectionism here, if any, is not the perfectionism of virtuous attainment for life. It is rather the minimal perfectionism of the performance in living.<sup>23</sup>

The question then is what the core of this self-pursuit for a better life is. And I think that it is a certain sort of integral process in personal life: that is, *self-formation*.

To understand the significance of self-formation, we should start from considering the multiplicity of the self. When we reflect on the ethical conflicts in personal life, we find that there are various ethical forces which conflict within ourselves. To take a few, there are forceful emotions and other rational or reasonable considerations, such as self-interest, desirability, practicality, freedom, equality, desert, needs, special obligations, custom, or autonomy. This will suggest that there works a certain multiplicity of the ethical considerations in the self. The most typical characterization of this multiplicity is the Platonic distinction among reason, emotion and will. In this type of view, reason has an initiative to guide and regulate emotion and will for a rational pursuit of the ideal in one's life.<sup>24</sup> However, as Stuart

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<sup>23</sup> Cf. Ronald Dworkin, *Sovereign Virtue* (Harvard U.P., 2002), p. 253ff.

<sup>24</sup> Cf. Plato, *Phaedrus*, 246A and after.

Hampshire persuasively criticized, the Platonic master-mind view of the self is not plausible, because reason, emotion and will may be mutually interactive. Hampshire perceptively maintained that the initiative in the self is taken sometimes by reason, sometimes by emotion, and sometimes by will, and that all of this process is controlled by the process of reflection and prescription with the result of the realization of the decency in the self. Thus, the self should be understood not as hierarchically monolithic but as heterarchically multiple.<sup>25</sup> In addition to this Hampshirean view of multiplicity of the self, we should be aware the internal layers of the self depicted by Gary Watson. Watson points out the difference between the first-order desires and the second-order evaluations in the self. We appreciate which desires we should pursue by higher-order evaluative reflections.<sup>26</sup> This is also an important insight. If so, we can dub this Watsonian distinction to the Hampshirean outlook to reach the view that at the internal dimension the self has the multiplicity by two-tier structure, in which higher-order reflection and prescription can guide and regulate lower-order desires for one's thinking and doing.

The multiplicity of the self is further elucidated by its external diversity. As Michael Walzer insightfully pointed out, the self may be divided in relation to social setting.<sup>27</sup> Walzer grasps the multiplicity of the self in three aspects of social identities. The first is concerned with the natural property of individuals: race, sex and other genetic characteristics. The second is concerned with the social relations surrounding individuals: family, friends, associations, or other social groups. And the third is concerned with rights and obligations which individuals hold in various social relations. Walzer thinks that the self is divided into these three aspects, which sometimes conflict with each other. Still, this self is not completely divided. According to Walzer, the voices of these aspects can be listened to and there can be certain dialogue among those voices in the self. At any rate, if the self has this kind of external multiplicity, the complexity of internal multiplicity mentioned earlier becomes at least tripled along the aspects of one's social identities.

Incidentally, we should understand another external dimension for the multiplicity of the self: that is the plasticity over time. As Derek Parfit suggested in a slightly different context, the constituency of the self may change in the flow of

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<sup>25</sup> Stuart Hampshire, *Innocence and Experience* (Harvard U.P., 1989), p. 23ff.

<sup>26</sup> Gary Watson, "Free Agency" (in: John Martin Fischer, ed., *Moral Responsibility*, Cornell U.P., 1986, pp.81-96), p. 83ff.

<sup>27</sup> Michael Walzer, *Thick and Thin* (Univ. of Notre Dame Press, 1994), ch. 5.

time.<sup>28</sup> Putting aside the issue whether this change radically modifies the common-sense assumptions on the concept of person or not, it is significant here that the internal and external multiplicity of the self somewhat changes its content or mode over time. To add the consideration on the plasticity of the self over time to the complexity mentioned above makes the multiple character of self much more complicated than ordinarily imagined.

Even if the human self may be multiple in various dimensions, however, it does not immediately follow that the self is so fragmented that one cannot integrate not only synchronically but also diachronically. Rather, I think the case is opposite; there is a possibility of the integration of the self in a couple of ways.

First, not only the Hampshirean internal multiplicity, but also the Walzerian external multiplicity of the self does not indicate the impossibility of integration. Rather they both suggest a certain route of the integration of the self. Hampshire suggests the controllability of the self by reflection and prescription. Also, with the Watsonian two-tier structure of the self, we can think that this control is carried out with a certain evaluation. True, the Walzerian multiplicity of the self may hold the heterogeneous dividedness of social identities in the self. But, Walzer himself also suggests that there is some arrangement among the voices from divided parts: the self is considered as embracing something like a chairperson. In this regard, we should pay attention to the dimension of ethical ordering in the self. Even if various in its substantive content, this dimension of ethical ordering can determine the particular mode of the self in each individual. The dimension of ethical ordering classifies the importance of basic or derivative values in one's self and shape one's thinking and doing along with it. This ethical ordering itself is common to all of us, which is constitutive of the judgmental working of the self in us human beings. Secondly, the plasticity of the self over time can imply the necessity of the integration over time. The past may be a potentiality to be incessantly articulated at the present, thus it should be consistent with the present. Meanwhile, the future is simply non-existent from the standpoint of the present, which means that we always orient ourselves toward the future, and that, in the flow of time from the future to the past via the present, we construct our lives. In this sense, we seek the consistency between the future and the past via the construction of the present. This means that one pursues certain integrity of life over time, and, if this pursuit synchronically depends on the work of ethical ordering mentioned above, the entire self moves

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<sup>28</sup> Derek Parfit, *Reasons and Persons* (Oxford U.P., 1984), Part Three.

consistently toward the realization of a certain objective in life.<sup>29</sup>

Then, how should we capture the essence of the self? Although this question is much debatable, my view is that we have certain judgmental core in the self which yield one's thinking and doing in synchronic and diachronic settings. This core is understood as the interpretive spiral of receptivity, sagacity, and practicality: it is the developmental spiral among the intelligent sensibility in understanding, the imaginative ability of progressive response, and the practical power to attain the life objectives at hand.<sup>30</sup> The intelligent sensibility in understanding indicates that one can interpret other's thinkings and doings in the best way possible, with a sense that these persons basically share certain problem-interests, even if they have different opinions. The imaginative ability of progressive response indicates that one can devote oneself to reach a better explanation and justification of the problems discussed. And the practical power to attain life objectives is that one has enough will to step forward to the realization of the reasonable solution of the problem at hand. Also, this spiral develops successively toward a new dimension over time. One sensibly perceives the problem situations at hand, imaginatively construct a better solution for it, willfully carry out what to do reasonably, and then face and perceive the new problem situation at another stage in life.<sup>31</sup> To put these conditions together, we grasp the significant core of the self, and can share serene feelings with reason. This is the very process of self-formation, as I understand it.

The important thing to note then is that from the viewpoint of society, self-formation is carried out by every individual in society, despite the deep differences in mode and substance. The recognition of this social fact sets the starting point for the respect and concern for people from a public viewpoint. For, the case that self-formation is significant for every individual means socially that society has to care about any possibility of self-formations among divergent people. Also this naturally leads to the thought that if we should pay attention to the significance of human well-being as the focal idea for public institution, we should hold self-formation as the candidate of human well-being.<sup>32</sup> Thus we have to

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<sup>29</sup> Cf. Christine Korsgaard, *Creating the Kingdom of Ends* (Cambridge U.P., 1996), p. 369ff.

<sup>30</sup> This view is developed based on the so-called hermeneutic circle. Cf. Hans-Georg Gadamer, *Philosophical Hermeneutics* (Univ. of California Press, 1976), Part I.

<sup>31</sup> This is also a process of incessant problem-solving in human life. Cf. Karl Popper, *Objective Knowledge* (Oxford U.P., 1972), chs. 1, 3.

<sup>32</sup> There is an interactive relationship between the eye of public viewpoint and the focal point in people in society. This is not a view which may violate the naturalistic fallacy; rather it can be called as *critical naturalism* that normative considerations counter with human conflicts in society.

articulate more about the idea of self-formation in the public setting.

Individually speaking, self-formation has a particularly unique character which is connected to a particular meaning of one's own ethical life. It might be mostly perfect, successful, or poor. From a public perspective, however, self-formation is to be captured as independent of those particular substances or modes of individual lives. Self-formation in this regard is to be seen as simply dependent on and accessible through public value. We should recall here that public value has the following characteristics.<sup>33</sup> Public value is what has to be somehow publicly shared among divergent people; it is to be detached or non-agent-related, embracing, and interactively ordering among divergent values; it aims at regulating inter-agent relationships; and it is concerned only with facilitating necessary and decent conditions for the activities of people. Thus, the public view of self-formation is related to the common baseline of the activities of people, which may be developed multifariously by each of them.

The question then is what this common baseline is. Here, I take this as the common axis for individual lives which is for the maintenance of the context of individual activities in society. In other words, it is the axis around which individual activities are constituted, performed and developed. In this regard, as for the phenomenological aspects of this axis, we may capture the *basis*, *route*, and *result* of activities, which are sequential characteristics common to any individual activities in society. If so, corresponding to these aspects, self-formation itself has certain constitutive factors in a successive way: that is, the *status*, *ability*, and *attainment*.

The status in self-formation is the starting point of the spiral of receptivity, sagacity and practicality, where the moral standing of equals or individual independence should be maintained. The ability in self-formation is the process of forming oneself through the spiral of receptivity, sagacity and practicality, where the basic capacities of individuals are to be enhanced. The attainment in self-formation is the fair share of the products of individual activities, by which the spiral of receptivity, sagacity and practicality is to be advanced. Then, the context of human activities may also be captured as the spheres of activities. Generally speaking, society has several distinct spheres of human activities. In particular, modern sociology teaches us that the basic units of society are government, family, and association. This suggests that we have political activities regarding the working of government and power, that we have cultural activities regarding the function of

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<sup>33</sup> Earlier in this essay, p. 2.

family and socialization, and that we have economic activities regarding the development of material production and consumption. This recognition is to be generalized to the effect that in society there are *political sphere*, *cultural sphere*, and *economic sphere*, in each of which distinctive goods unique to each sphere are to be provided. These are *political goods*, *cultural goods*, and *economic goods*, which give necessary and decent resources for the status, ability and attainment of self-formation relative to those spherical contexts.

If the context of human activities in society has its aspect and sphere, we may combine these factors to represent the framework of the context of self-formation in the following nine-cell matrix.

	<b>Status</b>	<b>Ability</b>	<b>Attainment</b>
<b>Political Goods</b>			
<b>Cultural Goods</b>			
<b>Economic Goods</b>			

Although it be a simpler heuristic device, this matrix also represents the angle of the public concern for self-formation. The fulfillment of this framework in a proper way shows the working of public concern to attain the best realization of human well-being in terms of the support for self-formation. The degree of the fulfillment in each cell is determined by a certain idea of public concern. In this regard, we may imagine a polar between the minimal support only at status cells and the full support at every cell, except that these two possibilities are to be rejected as improper in terms of self-formation as human well-being. For, as has been suggested so far, self-formation is the idea that people have equal share of basic support for their diverse lives, while each individual can have divergent objectives for her own life. This idea is to be located somewhat in between the polar mentioned above. Thus the relevant thought is that in the framework above a certain well-balanced distribution of resources, along with the characteristics of matrix, is required in order for anyone in society to be able to pursue her own life. This means that the fulfillment of the framework in a proper way itself can express a better idea of public concern for human well-being: each person has equal accessibility to the realization of one's own life, with fair basic support provided by society. This idea is

to be called as *equal access to moral independence*. It corresponds to the best conception of human well-being, namely self-formation, as I endorse it.

### **3. The Value of Substantive Fairness and the Frame for Public Provision**

How can an idea of distributive justice attain equal access to moral independence?

To get the first outlook for this question, we should consider several moral problems concerning unfairness in society. These are problems concerning, for example, the infringements of basic rights, the initial imbalance of wealth or social status, and the ignorance of social handicap or information gap; concerning the lack of the ability for autonomy caused by impairments or handicaps, the insufficiency of job-training or educational opportunities, and the impropriety of medical support; or, concerning the unreasonable imbalance of earnings, the necessity of the aid for unemployment, and the burdens for external negative effects in economic activities.

Without the protection of civil liberties such as the liberty of life, body, property, religion, expression, or choice of office, individuals in society cannot subsist peacefully. If there is the initial imbalance of social status, wealth, or the persistence of handicaps, individuals cannot but be unequally burdened with negative resources which cannot be disposed of for themselves. Also, without the proper job-training or other educational opportunities and medical support for healthy living, individuals cannot maintain the minimal abilities for living through their lives. And if there are no reasonable redistributions of earnings or common burdens for the external effects in economy, the inevitable opportunity costs of society cannot be fairly shared among the members of society, nor equity on these matters for the maintenance of individual life can hold properly. These are, I believe, a basic set of well-considered judgments in public morality.<sup>34</sup>

These judgments show the necessity of public judgment for equal access to moral independence: without proper supports for individual life in accordance with a certain ideal for it, there cannot be a fair social order in which human well-being in terms of self-formation may be adequately realized. Thus, if a proper objective of distributive justice should be the realization of equal access to moral independence, a

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<sup>34</sup> If these judgments are taken as well-considered ones simply because I have already certain liberal intuitions, there is a circularity. However, this is not a serious problem here, since I am now interpretively articulating and elucidating a possible content of a certain idea of distributive justice which I believe is the best conception of it.

proper conception of such justice should also respond to this idea. Here, I contend that we should take *substantive fairness* as the best conception of distributive justice.

To articulate the content of substantive fairness, let us recall the nine-cell matrix which captures the necessary framework for the public concern for self-formation among individuals in society.<sup>35</sup> The idea of substantive fairness is to be developed in accordance with this matrix in which, following also the well-considered judgments exemplified above, the fulfillment of each cell can be full, partial, or nil in expressing the necessity and degree of support in question. Those judgments are categorized and specified relative to each of the following nine contexts: (i) political status, (ii) political ability, (iii) political attainment, (iv) cultural status, (v) cultural ability, (vi) cultural attainment, (vii) economic status, (viii) economic ability, and (ix) economic attainment.

Regarding political status, for example regarding the protection of civil liberties, franchise should be guaranteed equally for any qualified member in society. Regarding the political ability of franchise, however, there is no need for support, because the political judgment in voting is one's own private problem regardless of whether it is politically good or bad, or significant or meaningless. Regarding political attainment, one need not to be aided for the result of voting as one wishes, because it is simply a problem of accidental consequences in terms of democratic decisions. Next, regarding cultural status, for example, concerning educational opportunities, basic compulsory education has to be guaranteed for everyone in society. Regarding the cultural ability in education, one needs certain support if one may not have adequate ability to follow the necessary curriculum for basic materials. But, regarding the cultural attainment in education, one does not need to be aided for getting the same educational result as others, because there should be the difference in attainment in proportion to the talents and efforts one may have. Further, regarding economic status, the rights for employment, for example, should be protected equally without regard to sex or race. Regarding the economic ability in work, one needs certain supports for unemployment or job-training to the extent that these are the lacks for which they are not responsible. Regarding economic attainment, there is certain need to redistribute the results or burdens of economic activities in society, because one cannot succeed to get profits without any help from others or because one should take a part of common burdens which collective economic activities generate.

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<sup>35</sup> Earlier in this essay, p. 13.

Based on these extended well-considered judgments, we can fulfill the necessity and degree of support in each cell within the matrix above. It may be represented in the following heuristic way:

	<b>Status</b>	<b>Ability</b>	<b>Attainment</b>
<b>Political Goods</b>	*		
<b>Cultural Goods</b>	* *	*	
<b>Economic Goods</b>	* *	* *	*

In this figure, \* basically means the requirement of provision which is expected to realize equality among members of society. Then, \*\* indicates full provision for equality in the domain in question, while \* indicates partial provision which leave certain room for no aid in the domain in question. Also, non-marked cell means that no provision is necessary. The domains with no provisions are the zones of freedom for people in society in which any ability or attainment is appreciated as attributed to people's own responsibilities.

Incidentally, the typical examples of the protected values and interests in this matrix are the following.

	<b>Status</b>	<b>Ability</b>	<b>Attainment</b>
<b>Political Goods</b>	<i>Equal Liberty, Equality under Law</i>		
<b>Cultural Goods</b>	<i>Family Rights, Basic Education</i>	<i>Learning Skills</i>	
<b>Economic Goods</b>	<i>Economic Rights, Labor Rights</i>	<i>Job Training, Unem- ployment Insurance</i>	<i>Redistributive Tax Schemes</i>

There are several theoretically important points to note in order to clarify the idea of matrix in terms of the value of distributive justice.

First, the idea of substantive fairness for the protection and enhancement of self-formation as the best conception of distributive justice is articulated as multi-dimensional value. Basically, as important public values, we should take liberty,

equality, and efficiency.<sup>36</sup> These three values orient themselves to regulate the relationships among individuals in society; thus they work publicly. To put it briefly, liberty expresses the idea that there should be no undue interventions among people; equality expresses the idea that there should be equitable balance in resources among people; and efficiency expresses the idea that there should be the optimal allocation of resources in society. These three values, embracing divergent lives of people under them, give the extrinsic constraints for human activities in society. There will be no denying that these values are important inheritance in our history since modernization.

We should note here that those three values have different fields in their workings while they have certain interrelationship as well. From the angle of liberty, while it is advisable that individuals pursue their own lives without any hindrance from others, it may contradict equality when the results of these activities generate unreasonable discriminations or social differences among people. Also, while liberty can achieve the efficient optimality in resource allocation especially through voluntary transactions in market mechanism, it may conflict with efficiency when there appear economic problems of high transaction costs, monopoly, externality, or the necessity of trade-off under scarcity of resources. Further, equality has certain tension with efficiency. Although in the world of the Rawlsian difference principle or the Varianian envy-free allocation equality and efficiency can be compatible,<sup>37</sup> there are many prerequisite moral problems concerning discrimination or unequal ability which are worsened in the pursuit of efficiency without any *ex ante* or *ex post facto* corrections for equality.

Seeing this complex relationship among liberty, equality, and efficiency, we can understand it in the following way. Let us assume the basic horizon where individuals perform their own activities with being fully protected by proper public values. In this horizon, individual activities are to be circumscribed not to intervene with each other. This is the working dimension of liberty. But, there are many individuals who cannot enjoy the basic horizon for their activities because of discriminations or other differences in resources. They are appreciated as living less than the basic level.

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<sup>36</sup> There are other values which are seemingly relevant, such as self-interest, perfection, desert, needs, special obligations, autonomy, or evolutionary standards. However, they are not counted as public values, because all these values are only agent-relevant ethical values, or the ones which cannot decide themselves the conflicts on their own understandings, or are too vague or already presuppose more substantive values.

<sup>37</sup> Cf. John Rawls, *A Theory of Justice* (Rev. ed.) (Harvard U.P., 1999), p. 65ff.; Hal Varian, *Variants in Economic Theory* (Edward Elger, 2000), p. 13ff.

Here is the working space of equality which corrects these gaps for people to enjoy the baselines for their activities. Meanwhile, when liberty and equality are satisfied, with diverse activities of individuals the level of horizon itself can be increased for the benefits for all the people involved. Efficiency works here in aiming at the realization of the possibly maximal benefits for all the people. From this triplex understanding, we may present that liberty, equality, and efficiency are to be properly harmonized in a well-balanced way. The idea of substantive fairness shows this balance as equal access to moral independence in accordance with the matrix for the realization of self-formation for people in society.

In addition, I should mention here about the relationship between liberty and equality. The relationship between these two values has been a focus of debate in political philosophy.<sup>38</sup> In particular, since negative liberty has been regarded as crushing substantive equality which seeks certain material evenness in resources or welfare, liberty and equality have been taken as essentially conflicting. Apart from formal equality such as simple equality of opportunity, the concern for substantive equality is alleged to infringe negative liberty by violating of property rights or privacy<sup>39</sup>. So the question in our context is whether this problem arises under the idea of substantive fairness endorsed so far. My answer is negative. Under the idea of substantive fairness, equality focuses on the prerequisites of human activities, and these activities are developed on the basic resources that may not be exploited by our own responsibilities. As already seen, under the matrix which articulates the value of substantive fairness, the resources to be equalized are the political-, cultural- and economic-status; the parts of cultural ability and the economic ability; and the part of economic attainment. These should be regarded as necessary prerequisites for people to perform their lives in society: in other words, by these supports, people can hold equal moral independence in their social activities in which they can freely pursue their own values and interests. Thus, the key point for the relationship between liberty and equality lies not in what is exclusively important in society, but rather in which is more important concerning the problem-context of self-formation in providing supports for equal access to moral independence. Liberty and equality are relatively complementary in this outlook.

Secondly, we should beware of the place of rights under the idea of substantive

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<sup>38</sup> See, e.g., Steven Lukes, "Equality and Liberty: Must They Conflict?" (in: David Held, ed., *Political Theory Today*, Stanford U.P., 1991, pp. 48-66)

<sup>39</sup> This criticism is especially from the libertarian standpoint. E.g. Friedrich Hayek, *The Constitution of Liberty* (Routledge & Kegan Paul, 1960), Part III.

fairness. Basically speaking, rights are the unique normative device to give prior considerations for individual's demands. Although the contents of rights are individualistic, it is itself a normative concept which intersubjectively claims one's reasonable due within society. Thus, the interpretation and application of rights is to be determined by certain higher public value. This also means that it is basically the problem of distributive justice in society.<sup>40</sup> From the angle of substantive fairness, the distribution of resources along the matrix above is to be determined via proper rights, when the *fairness deficit* along the matrix is evident. For example, if no franchise is given because of racial prejudice, the idea of substantive fairness requires it to be given to anyone in the race in question with the corresponding push of rights. The necessity of rights is a positive side and a function of the seriousness of the fairness deficit.

In this regard, we need two types of rights considerations: one for the recognition of rights, while the other for the moderation between rights. The recognition of rights is concerned with the cases where public decision or decisions of others in society generate the unreasonable deprivations of interests of individuals. The moderation of rights is concerned with the cases where different rights claims in question generate the relative deprivations in one of the conflicting rights. As to the former type, rights claims are regarded as justified, if rights claims fall under the situation where the matrix of substantive fairness requires equalization of resources; as to the latter type, one of the rights claims is given prior considerations, if this claim falls under the more basic domains in the matrix. Overall, the necessity of rights is determined by the urgency of the recovery of the fairness deficit according to the matrix of substantive fairness.

Incidentally, we can make new classifications of rights with utilizing the matrix of substantive fairness: that is, status rights, ability rights, and attainment rights; or political rights, cultural rights, and economic rights; and further the combination of these classifications such as political-status rights or economic-attainment rights, and so forth. These new classifications will be of help for grasping the complex functions of rights in society.<sup>41</sup>

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<sup>40</sup> It is important that when we assign rights to certain vital interests we already appreciate the lack of these interests as infringing justice. Cf. Ronald Dworkin, *Taking Rights Seriously* (Harvard U.P., 1977), ch. 7.

<sup>41</sup> For example, we may think that there is a functional homology among the rights to free speech, the rights to education, and the rights to employment, in terms of the prerequisites to the realization of decent personal life in society. We can also make an ordering of various rights along the matrix of substantive fairness.

Thirdly, the matrix of substantive fairness determines the ordering for public provisions. When the matrix has a certain order both along the axis of status, ability, and attainment, and along the axis of political goods, cultural goods, and economic goods, there is an indication for the ordering among nine cells yielded by the combination of these axes. Namely, as the aspect of status and also the sphere of political goods are the most basic parts of this matrix, we may think the ordering among those nine cells in the way that the more status related and political goods related the values and interests in question are, the more important public provisions become for realizing equal access to moral independence. More concretely, we may think that the political status has a priority to the cultural status, and the cultural status to the economic status, while the cultural ability has a priority to the economic ability and the economic attainment. Also other cells left are given no public provisions. I believe that this is another heuristic content of the idea of substantive fairness. And I call the conditions determined by the three matrices shown in this section *the frame for public provision*.

	<b>Status</b>	<b>Ability</b>	<b>Attainment</b>
<b>Political Goods</b>	<i>1</i>		
<b>Cultural Goods</b>	<i>2</i>	<i>4</i>	
<b>Economic Goods</b>	<i>3</i>	<i>5</i>	<i>6</i>

To add, I should mention about the cases where conflicts of values and interests are found within the same cell in the matrix: such cases as, say, the conflict between freedom of expression and the protection of privacy within the cell of political status. In this sort of cases, the matrix above only seems to show that the question is to be located within the same domain which needs certain equalization of resources. This might seem not enough for the proper solution of such cases. Yet, this will be itself significant heuristic information for the moderation of rights: being classified within the same category of political status, the two liberties are appreciated both important and to be equally provided as far as possible. Of course, the fairness deficit between these two liberties cannot be easily detected, because in this case both of these liberties have certain intrinsic values and thus need another standard for moderation. Here I think that the value of efficiency becomes

important, since we can somehow evaluate the permissible social cost in protecting either of both liberties. This implies that the matrix of substantive fairness implicitly holds the third value for fairness other than liberty and equality which may sort out a better position, even if liberty or equality holds along the matrix above.<sup>42</sup> In this sense, the idea of substantive fairness articulates itself as a triplet balance of liberty, equality, and efficiency, corresponding to the problem contexts of concrete cases.

Related to this, a further point to note is the degree of concreteness of normative considerations. An example of the importance of this consideration is shown in Rawls' idea of the Four Stage Sequence for the realization of justice through law.<sup>43</sup> However, what I have in mind here is slightly different from Rawls'. It is rather concerned with the theorizing of the implementation of particular means for particular cases along the matrix of substantive fairness as a development of law.<sup>44</sup> Here we need to consider the conditions of the integration of abstract principle and concrete judgment. Especially from the viewpoint of the former principle to which substantive fairness belongs, it is important to distinguish two kinds of dimensions in application: *simple* vs. *complex*, and *direct* vs. *indirect*. Simple application of principle is a sweeping and rigid application to the problem at hand. Complex application is a dispersed and sensitive application to the problem. Direct application is a comprehensive and penetrating application of the principle to the problem. Indirect application is a partial and bounded application to the problem.

If we assume these distinctions, we apparently have four combinations concerning the concreteness of normative considerations: simple-direct (S-D), simple-indirect (S-Id), complex-direct (C-D), and complex-indirect (C-Id). In terms of these combinations, the point I am considering is in what combination the theorizing in question within our context can imply. I think that S-D or S-Id is wrong, and C-Id is the right stance of the principle-judgment integration from the liberal perspective I have been trying to articulate through the idea of substantive fairness. This liberal perspective can tolerate various types of diversity: we need the proper spherialization of abstract and concrete theories, and make the working and scope of the abstract principles more sensitive to specific problem-circumstances. In this sense, our further considerations on concrete cases should be connected to the idea of substantive fairness through the C-Id route suggested above. It should also be remarked here that the frame for public provision explicated above is a heuristic

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<sup>42</sup> On the conditional significance of efficiency, e.g. Hausman and McPherson, *op.cit.*, p.90ff.

<sup>43</sup> Rawls, *op.cit.*, p.171ff.

<sup>44</sup> Let us recall that public institution is law in a broad sense. Earlier in this essay, p. 3f.

device for the evaluative direction of our thinking and doing in more concrete public provisions. It is by giving proper interpretations to the meanings and scopes of resources in question that we permeate the frame for public provision into our activities in society.

Fourth and finally, to note is the significance of public medical aid. This is not adequately indicated in the matrix of substantive fairness. Since medical aid is concerned with the very fundamental functions of human well-being, it is actually the external basis of self-formation which tends to fall outside the matrix. To extend the spirit of substantive fairness, this fundamental level should be supposed radically equal, because any kind of status is to be appreciated as equal in the matrix above. Still, although public medical aid is to be given as equally as possible to people in need, the degree of it beyond the minimal decent level of protection is a different question. For, at the very basic level, too, the measurement of the proper distribution of resources will be the question of prudence, if not of real efficiency, as well as in the case of the third dimension of the matrix mentioned earlier. How the natural deficiencies or impairments of people may be covered by social arrangements of public provision is itself a deeper question, which cannot be fully dealt here except for brief remarks later.<sup>45</sup>

#### **4. Some Complementary Remarks**

From the viewpoint of substantive fairness for public provision, how can other outlooks be appreciated? To conclude this essay, I wish to make some brief remarks on the two interesting views.

Recently Jonathan Wolff developed very interesting ideas for welfare aid.<sup>46</sup> He contended that there are three variables for welfare aid, such as internal resources, external resources, and social framework. Corresponding to these variables, he claimed that there are three forms of remedy, such as personal enhancement, targeted resource enhancement, and status enhancement, with the supplementary methodical ideas of nullification and of narrow aim redress<sup>47</sup>. Also, he suggested, to understand the substantive significance of these forms, we need certain views on the human need which are plural along each of those forms of remedy. Further, in

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<sup>45</sup> Later in the last section of this essay, p. 25f.

<sup>46</sup> Jonathan Wolff, "Addressing Disadvantages and the Human Good" (in: *Journal of Applied Philosophy*, 19, 2002, pp.207-218)

<sup>47</sup> For detailed explanations, Wolff, *op.cit.*, p. 211f., p.216f.

arguing for this point, he tried to point out a sort of the best mix between the essentialist ideal for individuals (as to personal enhancement concerning internal resources), the ideal of non-paternalistic corrective support for individuals (as to targeted resource enhancement concerning external resources), and the ideal of adjusting reconstruction of social settings (as to status enhancement concerning social framework), without being drawn into the trap of humiliation, demeaning, or stigmatization. This is also to be suitable to the ideal of respect and also to the idea of nullification of obstacles.<sup>48</sup> I believe that Wolff's exploration is quite understandable and stimulating, as well as sensible and significant. Thus, I would like to comment here on his outlook, especially to explicate my more concrete view on substantive fairness in welfare aid.

As Wolff remarks rightly, we still lack an adequate gyroscope for the concretization of egalitarian concern, even if distinguished theorists have been exploring viable conceptions of equality at the abstract level.<sup>49</sup> However, Wolff made an important step for that concretization. Although his standpoint seems more egalitarian than mine, I don't have disagreements with his basic ideas on welfare aid that we need three sorts of remedial considerations suggested above. In particular, it is important that his classification suggests the circumstantial structure of individuals for their activities in society. Still, I think that among Wolff's distinctions or forms of remedy some axis idea of human well-being and distributive justice is necessary.

While it seems that Wolff is drawn to the plurality of this axis, I believe that the frame for public provision articulated earlier may put Wolff's ideas in a certain order. Utilizing the frame for public provision, we may place welfare aid in the cells of status and ability in cultural and economic spheres. The point I wish to stress is, first, that although Wolff's distinction among internal resources, external resources, and social framework is surely important, we can regard it as, so to speak, a phenomenologically pluralistic distinction which yet expects a certain integrative assumption on human well-being. We will be able to connect that distinction to the ethical idea of self-formation and public value of equal access to moral independence; these integrative values are concretized for realizing welfare aid along the frame for public provision in my sense. I think that this integrative view can give a more consistent guide for the selection of forms of remedy Wolff pointed out.

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<sup>48</sup> This is in the sense of respect which Wolff already developed in his article "Fairness, Respect, and the Egalitarian Ethos" (in: *Philosophy & Public Affairs*, 27, 1998, pp.97-122), esp. p.107ff.

<sup>49</sup> E.g. Darwall, *ibid.*; Pojman & Westmoreland, *ibid.*; Kymlicka, *op.cit.*, p. 82ff., p.95f.

This leads to the second point I would like to emphasize. If it is possible to make my idea on public provision overlap with Wolff's idea on forms of remedy, we might find other dimensions to consider on the forms of remedy. One aspect to note is that the axis of status/ability/attainment may be parallel to Wolff's distinction among status enhancement/targeted resource enhancement/personal enhancement, with a qualification that in the frame for public provision we can also specify the character of redistributed resources along the nature of our social activities. For example, while the so-called barrier-free project can be required in the domain of cultural status for equitable distribution of resources as status enhancement, targeted resource enhancement for specific ambitions of children has certain limitation in the domain of cultural ability. However, we have to also beware that Wolff's distinction on the forms of remedy between targeted resource enhancement and personal enhancement is not exactly parallel to my distinction between ability and attainment; rather, his distinction cuts across mine. For, while his distinction is focusing on the internality or externality of remedy for individuals, my distinction is focusing on the process or result of individual activities. In my view, Wolff's distinction is relativized along the sequence of individual activities. If so, my view is not as egalitarian as his view: in my view, while targeted resource enhancement can fully work at all the relevant levels in the frame mentioned above, personal enhancement can work only in a generalizable way in those levels. For example, if some special educational help for a particular child who wants to be a violinist despite of the handicap in her eyes is deemed publicly necessary, it is not from a particularly affective concern for this child but from a suitably generalizable concern for the handicapped individuals who have reasonable ambitions.<sup>50</sup> Of course, this never means that we should not have affection to that particular child. In applying specific aid to this child, it is natural that we need special attention to the particular circumstances of this child in order for this aid to be effective. My point is rather concerned with the question of general principle for such aid.

Thirdly, as to Wolff's suggestion on the narrow aim redress, I think that giving pinpoint aid is an important idea for more concrete nullifications. It will be a practically wiser way to give effective aid for those in need, without being involved

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<sup>50</sup> Incidentally, this point is related to Will Kymlicka's friendly criticism to Wolff's work. Although I don't think that Wolff is so much committed to "social justice" ideas, as Kymlicka identified. It seems to me that Wolff has been trying to connecting the good points in liberal thinking and social justice thinking. Especially, Wolff seems to try to deepen decent ways for the realization of equality concern, and try not to argue for social justice itself. Cf. Kymlicka, *op.cit.*, p.198ff.

into serious foundational questions. Nevertheless, even if wiser, I sense that we still have to clear a couple of problems here: one is the problem of diverse demands, and the other is the problem of power-relations.

By the problem of diverse demands, I am thinking about a paradox that the more we are ready for specific remedies, the more we have to provide narrower aid because of the demands aroused by preceding aid. Of course, Wolff himself once remarked that generally speaking, in the tension between fairness and respect, we have to sometimes make the way for respect. I think that this is right.<sup>51</sup> Yet, the paradox here is not the question of the egalitarian attitude but the question of unintended consequences. I think that to deal with this kind of consequences is still a remaining task for the ideas of effective specific aid.

By the problem of power-relations, I am thinking about the question whether the causes of the lack of respect are to be avoided by giving adequate aid or not. In other words, whether to give some aid itself does not really have any humiliating effects or not. I sense that a certain part of the problem of the lack of respect is caused by the ubiquitous power-relations among people, which will be inescapable in social relationship.<sup>52</sup> Thus I sense that, alongside such a sensible way of remedy as the narrow aim redress, we need certain adequate device for the mode of provision of aid. Here it will be natural for us to think not only about the governmental aid but also about the non-governmental aid, or some adequate mixture of these two kinds of aid. For a simple example, we will be able to work out a tax reduction scheme for voluntary associations which wish to give proper educational aid for children in need. If we could imagine the substantively perfect ways of remedy for the ideal of respect, we would still need the procedurally perfect ways of remedy.<sup>53</sup>

Now, I would like to make another brief remark on the limits of justice considerations on natural assets, in relation to Thomas Nagel's view on the relationship between justice and nature.<sup>54</sup> Nagel thinks that we need the distinction between the natural and the social to properly limit the concern of justice. Basically, he maintains that the pure natural characteristics such as sex, or genetic disease, cannot be the objects of the full consideration in justice, because justice is related only to the socially allocable resources. I think that Nagel's ultimate concern is in the

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<sup>51</sup> Wolff, *op.cit.*, p.118f.

<sup>52</sup> Cf. David Beetham, *The Legitimation of Power* (Macmillan, 1991), ch.2.

<sup>53</sup> Wolff might have already taken into account this point in the context of British politics, whereas I have to be keen about this because we Japanese are now much discussing about the welfare reform in the transition from paternalistic ideas to more rational ideas.

<sup>54</sup> Thomas Nagel, "Justice and Nature" (in: *Oxford Journal of Legal Studies*, 17, 1997, pp.303-321)

maximal possibility of egalitarian conception of justice, even if he suggests that his view has become less egalitarian than before and if he is cautious of the danger of the expansive view of justice. Thus, I think also that he intends to talk about the importance of the condition of excessive costs in justice considerations.

Understanding Nagel's concern for the scope of justice, the natural/social distinction seems, though surely significant, still insufficient for his theoretical purpose. My sense is that there is another distinction accompanied with the natural/social distinction, which is between *the local* and *the global* in a society.

True, for example, if we find serious genetic disease only for some particular person, it is not sure whether we should give her a complete medical aid as a matter of justice. However, if we find this genetic disease prevalent in a greater part of society, it may be an urgent problem for justice. Another example is that, if there is sexual discrimination in social practice which yet involves a small portion of people in society, say, in a voluntary association, it will not be considered a matter of justice. But, if this sort of sexist practice is prevalent in entire society, it must be considered as injustice. These examples suggest that the problem of scale or amount is relevant for the scope of justice, thus the combination of natural/social and local/global distinctions is significant for the determination of the limits of justice. If so, the four classifications of natural-local/natural-global/social-local/and social-global is to be distinguished, and we may say correspondingly, from a Nagelian perspective, that while the natural-global and the social-global are to be covered by justice, the natural-local and the social-local are not to be covered by it. Actually, widely spread genetic disease and widely shared sufferings of homosexuality, are few of the examples of the natural-global, while exclusion of homosexuals from a particular voluntary association is an example of the social-local.<sup>55</sup> The former is to be in the concern of justice, while the latter not.

This apparently implies that we have to think more about the two cases of natural-global and the social-local in order to check the working of the natural/social distinction by Nagel. If the local/global distinction is also important and even other

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<sup>55</sup> Drucilla Cornell criticizes Nagel's idea more directly. Referring to Nagel's article, she discusses the problem of sexual identity (Drucilla Cornell, *At the Heart of Freedom*, Princeton U.P., 1998, ch. 3). According to Cornell, to form one's own sexual identity is very deep work of one's mind (in the imaginary domain, in her terminology), and not just a natural determination but rather such a human effort to make oneself. If so, what Nagel takes as natural difference of sex cannot be so natural but rather socially relevant one (to the extent that this identification depends on individual effort). This view is also pulling down the boundary line of the natural more than Nagel anticipates, by a certain view of the person at a deeper level.

kinds of factors might be relevant, the natural/social distinction seems too sweeping for the real concern of Nagelian equality. I think here that the frame for public provision may have a useful suggestion. Basically, this frame itself indicates the dimension of the social in which the domains of equalization indicate the global, and the domains of no-provision indicate the local. This implies that although the dimension of the natural is external to the frame, the justice-relevant factors within the natural may be determined by a projection of the aspects and spheres in the frame. Thus, we will be able to say that the natural-global resources related to the political, cultural, or economic status should be protected equally by the concern of justice. This is also a theoretical virtue of the frame for public provision in terms of the value of substantive fairness.