

5. THE POLITICS OF LIBERAL EQUALITY

Most people view liberal egalitarianism as providing a philosophical justification for the post-war liberal-democratic welfare state. Indeed, this linkage to the welfare state helps explain the remarkable influence of liberal egalitarian political theories. The 1950s and 1960s saw a significant extension of the welfare state in most Western democracies, but there was no satisfactory political philosophy at the time which could make sense of this phenomenon. The appearance of Rawls and Dworkin's work in the 1970s provided people with an intellectually satisfying framework in which to make sense of political debates around the welfare state.

Prior to Rawls's work, the most common way of describing the welfare state was to view it as an ad hoc compromise between competing ideals. Libertarians on the right believe in liberty, and hence endorse the free market, Marxists on the left believe in equality, and hence endorse state planning, and liberals in the middle believe in a wishy-washy compromise of liberty and equality. This is supposed to explain why liberals endorse the welfare state, which is an ad hoc combination of capitalist freedoms and inequalities on the one hand with various egalitarian welfare policies on the other.

But Rawls and Dworkin have offered us a more sophisticated way to think of the welfare state. If their theories allow some kinds of inequality-producing economic freedoms, it is not because they believe in liberty as opposed to equality. Rather, they believe that such economic freedoms are needed to enforce their more general idea of equality itself. The same principle that tells liberals to allow market freedom—i.e. that it holds people responsible for their choices—also tells them to limit the market where it penalizes people for their unchosen circumstances. The same conception of equality underlies both market freedom and its constraint. Hence the liberal favours a mixed economy and welfare state not in order to compromise conflicting ideals, 'but to achieve the best practical realization of the demands of equality itself' (Dworkin 1978: 133; 1981: 313, 338).

This link between the philosophy of liberal equality and the politics of the welfare state is so strong that many people call liberal egalitarianism 'welfare state liberalism' (e.g. Sterba 1988), and describe Rawls as offering 'a philosophical apologia for an egalitarian brand of welfare-state capitalism' (Wolff 1977: 195; cf. Doppelt 1981: 262; Clark and Gintis 1978: 311–14). But this link is now being seriously questioned. It is no longer clear whether the implementation of liberal egalitarianism would lead to the welfare state in any recognizable sense.

For one thing, liberal equality requires each person to start their life with an equal share of society's resources, and the sorts of policies needed to achieve

this go far beyond the traditional welfare state approach. As we have seen, the welfare state is primarily concerned with the *post factum* correction of market inequalities, through tax and transfer schemes. But as Mill recognized a long time ago, to focus solely on *post factum* income redistribution is to make 'the great error of reformers and philanthropists . . . to nibble at the consequences of unjust power, instead of redressing the injustice itself' (Mill 1965: 953). If our goal is to achieve greater *ex ante* equality in endowments, we need to directly attack the entrenched economic hierarchies of modern societies which disadvantage the poor, women, or racial minorities. This might involve quite radical policies, such as affirmative action, basic income, employee self-ownership, 'stakeholding', payment to homemakers, compensatory education investment, and so on. We would have to look at these one by one to see if they move us closer to the results of Dworkin's hypothetical auction, and that answer will often depend on the particular circumstances. Perhaps liberal equality would favour something like our existing schemes for ongoing income redistribution, but only after a radical one-time redistribution of wealth and property-ownership (Krouse and McPherson 1988: 103).

It is interesting to note that Rawls himself recognizes that the principles of liberal equality cannot be met by the welfare state. He endorses the quite different idea of a 'property-owning democracy' (Rawls 1971: 274). The difference has been described this way:

welfare state capitalism (as commonly understood) accepts severe class inequality in the distribution of physical and human capital, and seeks to reduce the consequent disparities in market outcomes through redistributive tax and transfer programs. Property-owning democracy, by contrast, aims at sharply reduced inequality in the underlying distribution of property and wealth, and greater equality of opportunity to invest in human capital, so that the operation of the market generates smaller inequalities to begin with. Thus, the two alternative regimes exemplify two alternative strategies for providing justice in political economy: Welfare-state capitalism accepts as given substantial inequality in the initial distribution of property and skill endowments, and then seeks to redistribute income *ex post*; property-owning democracy seeks greater equality in the *ex ante* distribution of property and skill endowments, with correspondingly less emphasis upon subsequent redistributive measures. (Krouse and McPherson 1988: 84)¹⁸

Rawls argues that a property-owning democracy would be superior to the welfare state, not only in reducing the need for *ex post* redistribution, but also in preventing relations of domination and degradation within the division of labour. If *ex ante* endowments are more equal, then 'no one need be servilely dependent on others and made to choose between monotonous and routine occupations which are deadening to human thought and sensibility' (Rawls 1971: 529, 281; cf. Krouse and McPherson 1988: 91–2; DiQuattro 1983: 62–3).

This raises an important point about the implications of liberal equality.

Dworkin often writes as if the most obvious or likely result of implementing his conception of justice would be to increase the level of transfer payments between occupants of existing social roles (e.g. Dworkin 1981: 321; 1985: 208). But as Rawls notes, liberal egalitarians should also be concerned with the way these existing roles are defined. An important component of the resources available to a person include opportunities for skill development, personal accomplishment, and the exercise of responsibility. These are predominantly matters, not of the income associated with a given job, but of the social relations entailed by the job. People would not generally choose to enter social relations that deny these opportunities, or that put them in relations of domination or degradation. From a position of equality, women would not have agreed to a system of social roles that defines 'male' jobs as superior to, and dominating of, 'female' jobs. And workers would not have agreed to the exaggerated distinction between 'mental' and 'manual' labour. We know that people in a position of initial equality would not have chosen these roles, for they were created without the consent of women and workers, and in fact often required their legal and political suppression. For example, the division between doctors and nurses was opposed by women health care practitioners (Ehrenreich and English 1973: 19–39), and the 'scientific management' system was opposed by workers (Braverman 1974). Both changes would have taken a substantially different form if women and workers had the same power as men and capitalists. The result would probably be not only greater equality in market income between these social roles, but also greater equality in opportunities for training, self-development, and the exercise of responsibility.

Dworkin says that increased transfer payments are justified because we can assume that the poor would be willing to do the work in higher-paying jobs if they entered the market on an equal footing (Dworkin 1985: 207). But we can also assume that if the poor entered the market on an equal footing, they would not accept jobs that, in Rawls's words, make them 'servilely dependent on others' or that are 'deadening to human thought and sensibility'. We have as good evidence for the latter as for the former. Liberal egalitarians, therefore, should be concerned not only to redistribute income from the advantaged to disadvantaged, but also to ensure that the advantaged do not have the power to define relationships of dominance and servility in the workplace. And here again, this cannot be achieved through the traditional tax and transfer schemes of the welfare state, but requires instead increasing the *ex ante* endowments people bring to the market.

It is to Rawls's credit that he recognizes the limitations of the welfare state in achieving liberal equality. Unfortunately, he does not provide much of a description of his property-owning democracy—as one critic puts it, 'these points never find their way into the substance of his theory of justice'

(Doppelt 1981: 276). Other than a rather modest proposal to limit inheritances, Rawls gives us no idea of how to implement such a property-owning democracy, or how to eliminate the entrenched class inequalities in our society. Similarly, Dworkin offers no suggestions about how to equalize *ex ante* endowments.

In short, liberal egalitarianism's institutional commitments have not kept pace with its theoretical commitments. This has led to a tension, perhaps even a crisis, in the politics of liberal egalitarianism. William Connolly says that liberalism's theoretical premisses can be united with its traditional institutions 'as long as it is possible to believe that the welfare state in the privately incorporated economy of growth can be the vehicle of liberty and justice' (Connolly 1984: 233). He claims, however, that the demands of the private economy conflict with the principles of justice that underlie the welfare state. The welfare state needs a growing economy to support its redistributive programmes, but the structure of the economy is such that growth can only be secured by policies inconsistent with the principles of justice that underlie those welfare programmes (Connolly 1984: 227–31).

According to Connolly, this has led to a 'bifurcation of liberalism'. One stream clings to the traditional institutions of liberal practice, and exhorts people to lower their expectations concerning justice and freedom. The other stream (in which he includes Dworkin) reaffirms the principles, but 'the commitment to liberal principles is increasingly matched by the disengagement from practical issues . . . this principled liberalism is neither at home in the civilization of productivity nor prepared to challenge its hegemony' (Connolly 1984: 234). I think this accurately describes the condition of contemporary liberalism. The ideals of liberal equality are compelling, but they require reforms that are more extensive than Rawls or Dworkin have explicitly allowed. Neither has challenged the 'civilization of productivity' whose maintenance has involved the perpetuation of entrenched inequalities of race, class, and gender.

Part of the reason for this disengagement, I think, is that liberal egalitarians have gradually lost confidence in the ability of the state to achieve justice. When Rawls wrote his book in 1971, the welfare state was seen by many people as essentially successful, and indeed as having more or less 'solved' the problem of poverty and class division. In the past thirty years, however, that faith has been deeply shaken. The recession in the early 1970s triggered by the OPEC oil crisis, and the subsequent ballooning of government deficits, led many to think that perhaps the welfare state was not in fact affordable or sustainable. And increasing economic globalization has persuaded many people that cuts to taxes and government spending are needed for businesses to remain competitive with those in foreign countries.

Moreover, there was increasing evidence that the welfare state was not

as successful as people had hoped or assumed. To be sure, some welfare programmes have worked well. Public pensions have largely eliminated the problem of poverty amongst the elderly in many countries. However, other programmes that were intended to promote equality have often ended up either perpetuating the dependence and stigmatization of the poor (e.g. the 'poverty trap' created by means-tested benefits), or have disproportionately benefited the well off (e.g. universal health care and education). Moreover, the 'new economy' seems to be producing ever-growing inequalities in market income; the gap between executives and workers, or between college educated and uneducated, has been steadily increasing. There is widespread concern that large sectors of the population will simply be excluded from this new knowledge-based economy. In short, the need for active state policies to combat inequalities in people's endowments and income is growing, yet most liberal egalitarians feel less and less confidence in the welfare state's ability to achieve this.¹⁹

And of course all of this has taken place in the context of a major backlash against the welfare state by the New Right in the 1980s, spearheaded by Reagan and Thatcher, who argued that the welfare state denied individual responsibility, stifled creativity, and reduced efficiency. The result has been a cutback in many welfare programmes, and a resulting dramatic increase in inequality in many Western democracies, particularly Britain and the United States. Growing market inequalities are no longer checked by any significant level of redistribution.

This has put liberal egalitarians in a bind, both intellectually and politically. Intellectually, their theories require going beyond the traditional tax/transfer welfare state to some form of 'property-owning democracy' or 'stakeholder society'. Yet politically, such ideas have seemed utopian in the difficult political and economic environment of the 1980s and 1990s. Rather than trying to extend the welfare state, liberal egalitarians have been on the defensive, trying to preserve what is left of the welfare state against New Right attacks, so as to maintain at least minimal levels of redistribution to reduce poverty and provide basic public services.

This may help explain the 'surprisingly conservative' tenor of many of Rawls's and Dworkin's works (Macleod 1998: 151). Faced with the New Right, liberal egalitarians have indeed been concerned to conserve what is left of the welfare state. Rather than emphasizing how inadequate the welfare state is, in comparison with some ideal of a property-owning democracy, liberal egalitarians have instead emphasized how necessary and justified the welfare state is, in comparison with a New Right vision of unrestricted property rights.

And yet one can ask whether this intellectual timidity has actually served the goals of liberal egalitarianism, even from a purely political perspective.

One could argue that liberal egalitarians have unintentionally played into the hands of the New Right. Partly as a response to New Right critiques that the welfare state penalizes the hard-working and rewards indolence and irresponsibility, Dworkin has tried to emphasize that the welfare state can be made more choice-sensitive. His policy recommendations focus on enabling those with resources to have more choices (e.g. allowing supplementary private health insurance), and on ensuring that the lazy or imprudent do not impose the costs of their choices on others (e.g. workfare). As we have seen, he has not invested the same time or effort in thinking how the system can be made more circumstance-insensitive.

This is understandable, in one sense, since Dworkin's main departure from traditional theories of equality is his concern for choice-sensitivity. And philosophically speaking, I agree that justice requires that people have choices, and pay for the costs of their choices. Moreover, the prospects for serious reforms aimed at remedying unequal circumstances have appeared non-existent for much of the last twenty years.

Nonetheless, by focusing on ambition-sensitivity, liberal egalitarians may have unintentionally reinforced the New Right's agenda, which is obsessed with identifying and punishing the irresponsible and indolent. According to the New Right, the welfare state wrongly limits the choices of the well off in order to subsidize the irresponsible behaviour of welfare dependants. In an odd way, Dworkin's own proposals for private health insurance and workfare fit into this framework. These policies do nothing to remedy unequal circumstances, and may indeed make it harder to generate public support for such remedies. Allowing private health insurance might erode middle-class support for public health care; and making welfare more conditional might further stigmatize the needy. That of course is not Dworkin's intention. He wants our policies to be *both* more choice-sensitive *and* more circumstance-insensitive. But he does not consider the possibility that, in our current political climate, emphasizing choice-sensitivity simply reinforces stereotypes of the 'undeserving poor' who are seeking public subsidies for their irresponsible lifestyles.

Of course, liberal egalitarians can and do challenge these stereotypes by showing that many inequalities cannot plausibly be traced to people's choices (like those between types A and B in Roemer's example). Moreover, liberal egalitarians rightly insist that society can only legitimately hold people responsible for their choices if their preferences and capacities have been formed under conditions of justice. To hold people responsible for their choices when society has not provided them with a decent education, for example, would be 'a massive piece of bad faith' (Elster 1992: 240; cf. Rawls 1979: 14–15; Arneson 1981: 205; 1997a; Scanlon 1988: 185–201).²⁰ So we cannot invoke people's allegedly 'irresponsible' behaviour as a reason not to remedy

their unequal circumstances: the latter is a condition for being able to judge the former.

In these and other ways, liberal egalitarians have tried to fight the New Right's tendency to 'blame the victim'—i.e. the tendency to accuse the disadvantaged of being responsible for their own plight. Nonetheless, the liberal egalitarian emphasis on ambition-sensitivity may have unintentionally reinforced this popular perception that the main problem with the welfare state is that it coddles the irresponsible.²¹

Jonathan Wolff has argued that this problem points to an interesting dilemma for theorists of justice. He suggests that liberal egalitarianism may indeed be the best *theory* of justice, from a purely philosophical point of view. But politically, it promotes the wrong *ethos* of equality (Wolff 1998). It encourages the state to view its disadvantaged citizens with distrust, as potential cheaters. And in order to overcome this distrust, the disadvantaged must engage in what Wolff calls 'shameful revelation'—i.e. they have to prove they do indeed suffer from some involuntary disadvantage, whether in their natural talents or childhood upbringing. The inevitable result, he argues, is to erode, rather than to strengthen, the bonds of solidarity and mutual concern between citizens. Philosophically, it may be true that the fairest scheme of distribution would distinguish voluntary from involuntary inequalities, but any attempt to implement this distinction in practice creates distrust, shame, and stigmatization. It may identify who has the fairest claims, but only through a process that undermines the civility and solidarity that leads people to care about justice in the first place.

Elizabeth Anderson has raised a similar objection to liberal egalitarians (or what she calls 'luck egalitarians'). She argues that liberal egalitarianism's emphasis on distinguishing voluntary from involuntary inequality leads to a disrespectful pity towards the 'deserving' poor, and paternalistic hectoring of the 'undeserving' poor (Anderson 1999). Here again, the philosophical argument for liberal egalitarianism may be defensible, but the politics involved may not be.²²

Wolff and Anderson suggest that these problems of 'ethos' are a reason for abandoning liberal egalitarianism for some other form of equality. (I will look at their preferred alternative in Chapter 5.) However, these ethos problems may instead suggest that we need to separate the two pillars of liberal egalitarianism and locate them in different places. Perhaps from the first-person point of view, when thinking about our own claims, we should make a conscientious effort to accept responsibility for our own choices, and to not ask others to subsidize our choices. Internalizing this requirement of choice-sensitivity should indeed be seen as an important part of the 'ethos' of democratic citizenship. A good citizen would apply the choices/circumstances distinction to his or her own claims. The problem arises, however, when we

attempt to apply this distinction to others, and try to ascertain the extent to which they are responsible for their plight. This can lead to the pernicious dynamic of distrust and shameful revelation that Wolff discusses. So it might be part of the 'ethos' of a good citizen that we do not pry into the (ir)responsibility of others, but rather trust that they are trying to be as responsible in their choices and demands as we are in ours. Of course, this means we may be taken advantage of by some of our less scrupulous co-citizens. But if we are successful in inculcating an ethos of good citizenship that emphasizes the importance of voluntarily accepting personal responsibility for our own choices, there may be few such cheaters. (I return to the question of whether or how liberals can promote an ethos of good citizenship in Chapter 8.) In any event, a scheme of justice that encourages everyone to view their co-citizens as putative cheats is not a promising basis for developing trust and solidarity.

This suggests that the main focus for the politics of liberal egalitarianism should be to remedy (the growing) inequality in people's circumstances, perhaps through the sorts of reforms proposed by Ackerman, Roemer, and Van Parijs. This will almost certainly require radical reforms that go beyond the boundaries of the traditional welfare state. According to Dworkin, the egalitarian premiss underlying Rawls's (and his own) theory 'cannot be denied in the name of any more radical concept of equality, because none exists' (Dworkin 1977: 182). In fact, this premiss seems to have more radical implications than either Dworkin or Rawls recognizes, implications that traditional liberal institutions are unable to accommodate.

It might be that a full implementation of Rawlsian or Dworkinian justice would require substantial changes in the way we define and allocate property rights (Buchanan 1982: 124–31, 150–2; DiQuattro 1983). It might also move us closer to radical changes in gender relations. The current maldistribution in resources between men and women does not match the results of freely made choices in either Rawls's original position or Dworkin's auction. Yet neither theorist has anything to say about how this systematic devaluation of the work and contribution of women can be removed. Indeed, Rawls defines his original position (as an assembly of 'heads of families'), and his principles of distribution (as measuring 'household income'), in such a way that questions about the justice of arrangements within the family are ruled out of court by definition (Okin 1987: 49). Of all the issues from which contemporary liberals have become disengaged, gender inequality is the most glaring omission, and the one which liberal institutions seem least able to deal with (see Ch. 9, s. 1 below).

So the relationship between contemporary liberal theory and traditional liberal political practice is unclear. The two have become disengaged in a number of ways. Liberalism is often called 'mainstream' political theory, as

opposed to radical or critical theory. That label is accurate in one sense, for Rawls and Dworkin are trying to articulate and defend the ideals that they believe are at the moral base of our liberal-democratic culture. But it is inaccurate in another sense, if it implies that liberal theories are committed to defending all aspects of mainstream liberal politics, or to rejecting all aspects of the political programmes of other traditions. It would be wrong to assume that the account of liberal equality I have presented is necessarily tied to any particular liberal institution, or is necessarily opposed to any particular socialist, feminist, or multiculturalist proposal. We will have to wait until we examine these other theories before we can determine the extent of their differences with liberal equality.

Some people argue that if liberals endorse these more radical reforms, they have abandoned their liberalism, or entered into a new phase of 'post-liberalism', since the focus is no longer just on protecting individuals against the state, but also on protecting individuals from oppressive social roles and practices that developed under conditions of inequality (e.g. Hampton 1997: 191–209).²³ That seems unduly restrictive, given the historical ties between liberalism and radicalism (Gutmann 1980). It is also misleading, for however far liberal principles take us from traditional liberal practices, they are still distinctively liberal principles. I have argued in this section that liberals need to think seriously about adopting more radical politics.²⁴ In subsequent chapters, I will argue that radical theorists need to think seriously about adopting liberal principles. Just as liberal practice often does a disservice to liberal principles, I will argue that radical principles often do a disservice to radical politics. But before considering these theories, I will look first in the next chapter at a school of thought which argues that liberal egalitarians have gone too far in the direction of social and economic equality.

GUIDE TO FURTHER READING

The most influential statement of liberal egalitarianism is, of course, John Rawls's *A Theory of Justice* (Oxford University Press, 1971). Early discussions of Rawls's argument can be found in Brian Barry, *The Liberal Theory of Justice* (Oxford University Press, 1973), Norman Daniels (ed.), *Reading Rawls* (Basic Books, 1975), and Robert Paul Wolff, *Understanding Rawls* (Princeton University Press, 1977). Thirty years later, Rawls's book remains a topic of undiminished interest. More recent discussions include Chandran Kukathas and Philip Pettit, *Rawls: A Theory of Justice and its Critics* (Polity, 1990), and Robert Talisse, *On Rawls* (Wadsworth, 2000). For a comprehensive overview of reactions to Rawls, see the five-volume (!) set entitled *The Philosophy of Rawls*, edited by Henry Richardson and Paul Weithman (Garland, 1999).

Rawls himself has continued to develop his ideas, particularly in *Political Liberalism* (Columbia University Press, 1993), *The Law of Peoples* (Harvard University Press, 1999),

and *Collected Papers*, ed. Samuel Freeman (Harvard University Press, 1999). I will discuss his more recent work on 'political liberalism' in the chapter on communitarianism, since it was written after, and offers one line of response to, the communitarian critique of his original theory.

The second most influential version of liberal egalitarianism is that developed by Ronald Dworkin, particularly in his 'What is Equality?' series of articles. These articles have now been collected together in Dworkin's *Sovereign Virtue: The Theory and Practice of Equality* (Harvard University Press, 2000). For a detailed critique of Dworkin's theory of justice, see Colin Macleod, *Liberalism, Justice and Markets: A Critique of Liberal Equality* (Oxford University Press, 1998).

Other influential statements of liberal egalitarianism include Amy Gutmann, *Liberal Equality* (Cambridge University Press, 1980); Bruce Ackerman, *Social Justice in the Liberal State* (Yale University Press, 1980); Brian Barry, *Theories of Justice* (University of California Press, 1989); Richard Arneson, 'Equality and Equal Opportunity for Welfare', *Philosophical Studies*, 56 (1989): 77–93; G. A. Cohen, 'On the Currency of Egalitarian Justice', *Ethics*, 99 (1989): 906–44; Amartya Sen, 'Equality of What?', in S. McMurrin, (ed.), *The Tanner Lectures on Human Values*, vol. 1 (University of Utah Press, 1980); Martha Nussbaum and Amartya Sen (eds.), *The Quality of Life* (Oxford University Press, 1993); Thomas Scanlon, *What We Owe to Each Other* (Harvard University Press, 1998); Eric Rakowski, *Equal Justice* (Oxford University Press, 1993); Philippe Van Parijs, *Real Freedom for All* (Oxford University Press, 1995); and John Roemer, 'A Pragmatic Theory of Responsibility for the Egalitarian Planner', *Philosophy and Public Affairs*, 22 (1993): 146–66. All share the underlying intuition about eliminating unchosen inequalities, while providing space for inequalities due to choices for which individuals are responsible.

A useful collection of liberal egalitarian writings can be found in Stephen Darwall (ed.), *Equal Freedom: Selected Tanner Lectures on Human Values* (University of Michigan Press, 1995).

There are no academic journals which are specifically devoted to liberal egalitarianism. However, it is arguably the dominant approach in contemporary Anglo-American political philosophy, and so is well represented in the major political philosophy journals, particularly *Ethics* and *Philosophy and Public Affairs*.

There is much debate within liberal egalitarianism about how best to implement the norms of equality of resources. The *Boston Review* has had several symposia debating the practical and philosophical merits of various proposals, including Roemer's idea of an egalitarian planner (vol. 20/2, Apr. 1995), and Van Parijs's idea of a basic income (vol. 25/5, Oct. 2000). Both symposia include commentaries from several prominent political philosophers (Scanlon, Rosenblum, Barry, Goodin etc). These symposia can be accessed on the web at: www.bostonreview.mit.edu

Additional information on the guaranteed basic income scheme can be found on the website of the 'Basic Income European Network', at: www.econ.ucl.be/ETES/BEIN/bein.html

NOTES

1. Rawls has a number of subsidiary arguments for his two principles of justice. For example, Rawls says that his principles meet the requirements of 'publicity' (1971: 133) and 'stability' (1971: 176–82) more fully than alternative accounts of justice. Principles of justice must be publicly known and easily applied, and the corresponding sense of justice must be stable and self-reinforcing (e.g. the 'strains of commitment' must not be too great). Rawls sometimes puts considerable weight on such arguments in defending his theory, but they do not by themselves generate a determinate theory of justice, and hence are subsidiary to the two main arguments I discuss. For a summary of the subsidiary arguments, see Parekh 1982: 161–2; Raikka 1998.

2. It is this condemnation of the unfairness inherent in the traditional state of nature which sets Rawls apart from another contract tradition—a tradition which runs from Hobbes to recent theorists like David Gauthier and James Buchanan. Like Rawls, they hope to generate principles for regulating social life from the idea of an agreement in an initial position. But unlike Rawls, the agreement aims at mutual advantage, not justice, and so it is permissible, and indeed essential, that the initial situation reflect the differences in bargaining power that occur in the real world. I will discuss this second contractarian approach in Chapter 4, and ask whether theories of mutual advantage should be considered as theories of justice at all.

3. Rawls says that the case of choosing principles of justice in the original position is importantly different from cutting a cake without knowing which piece you will get. He calls the first case an example of 'pure procedural justice', while the second is 'perfect procedural justice'. In each case, a procedure is supposed to yield just results. But in the former case there is no 'independent and already given criterion of what is just', while in the latter case there is (Rawls 1980: 523). But the contrast is overdrawn in this case, since, as we will see, there are some 'independent and already given criterion' for assessing the results of the original position. In any event, the two cases share the feature I am drawing attention to—the use of ignorance to ensure unbiased decisions.

4. Frolich and Oppenheimer have conducted a series of experiments designed to test this question. Subjects ignorant of their own place in a reward schedule were asked to choose amongst various principles of distribution, including Rawls's maximin, utilitarianism, and a hybrid model which maximized average utility subject to some minimum floor. The latter was the dominant choice (Frolich and Oppenheimer 1992).

5. Rawls denies that there is any essential similarity between his contractualism and Hare's impartial sympathizer. But, as Barry puts it, this denial 'seems to me simply a flailing of the air' (Barry 1989a: 410 n. 30). It is unfortunate that Rawls exaggerates the distance between his theory and Hare's, for the exaggeration works to Rawls's disadvantage. See the discussion of feminist critiques of Rawls in Ch. 9, s. 3c below.

6. For the canonical account of this idea of 'reflective equilibrium', see Daniels 1979; cf. Nielsen 1993; Norman 1998.

7. This objection is raised by Barry and Sen, although they mistakenly blame the problem on Rawls's commitment to using primary goods to define the least well off position (Barry 1973: 55–7; Sen 1980: 215–16). The problem actually lies in Rawls's incomplete use of primary goods—i.e. his arbitrary exclusion of natural primary goods from the index. Rawls does discuss the idea of compensating natural disadvantages, but only in terms of a 'principle of redress' under which compensation is made in order to remove the direct effects of the handicap and thereby create equality of opportunity (Rawls 1971: 100–2). Rawls rightly rejects

eliminating an undeserved inequality in overall primary goods? Compensating people for the unchosen costs of their natural disadvantages should be done, not so that they can compete with others on an equal footing, but so they can have the same ability to lead a satisfying life. For more on this, compare Michelman (1975: 330–9), Gutmann (1980: 126–7), and Daniels (1985: ch. 3), with Pogge (1989: 183–8), and Mapel (1989: 101–6).

Some commentators argue that Rawls does support compensating natural disadvantages, but not as a matter of justice. Instead he views our obligations to the naturally disadvantaged as 'duties of public benevolence' (Martin 1985: 189–91), or 'claims of morality' (Pogge 1989: 186–91, 275). These obligations to the disadvantaged are not matters of mere charity, for they should be compulsorily enforced through the state, but nor are they claims of justice. According to Pogge and Martin, Rawls's theory of justice is about 'fundamental justice', whereas compensation for the naturally disadvantaged is about 'the overall fairness of the universe' (Martin 1985: 180; Pogge 1989: 189). Unfortunately, neither author explains this contrast, nor how it is consistent with Rawls's emphasis on 'mitigating the effects of natural accident and social fortune' (1971: 585). Martin, for example, seems to say that mitigating the effects of differential natural *assets* is a matter of fundamental justice, whereas mitigating the effects of differential natural *handicaps* is a matter of benevolence (Martin 1985: 178). It is hard to see what, within a Rawlsian approach, justifies this distinction. (Brian Barry argues that this restriction is only legitimate if Rawls is abandoning the whole idea of justice as equal consideration and adopting instead the Hobbesian idea of justice as mutual advantage—Barry 1989a: 243–6; cf. n. 2 above.)

8. For further discussions of the idea of envy-freeness, and its use as a criterion of distributive justice, see Fleurbaey 1994; Arnsperger 1994.

9. It is not impossible to imagine people who will object even when the envy test is met. Since the envy test says nothing about people's welfare, it is possible that, of two equally talented people, one will be miserable while the other is elated. All the envy test tells us is that the miserable person would be even more miserable if he had the resource bundle that the elated person possesses. Imagine someone who is congenitally moody and taciturn, regardless of the sort of resources he has and the sort of success he has in his projects. In this case, satisfying the envy test will not yield equal benefits to each person. Since the miserable person cannot control his congenital grumpiness, we might think that he therefore has some extra claim on resources. (On the other hand, since the person's misery is *ex hypothesi* not due to the bundle of resources he has, it is not clear how any redistribution will change his misery.)

This example suggests that the simple typology Dworkin works with is inadequate. He tends to view everything as either *ambitions* (which he sees as coterminous with our personality-manifesting choices), or *resources* (which he sees as matters of unchosen circumstance). But there are personal attributes or psychological propensities (like grumpiness) which do not fit easily in either category, yet which affect how much benefit people get from social resources. For a critique of Dworkin's categories, see Cohen 1989: 916–34; Arneson 1989; Alexander and Schwarzschild 1987: 99; Roemer 1985a. While I cannot discuss these cases in depth, I believe that they (and other difficult cases such as uncontrollable cravings) complicate, rather than undermine, the aims and methods of Dworkin's theory. (As Dworkin notes, cravings or congenital moodiness can be viewed as a kind of natural disadvantage which could be insured against, along with other mental and physical disabilities—Dworkin 1981: 301–4.)

10. I am oversimplifying here. Dworkin in fact proposes two separate insurance schemes to deal with two different kinds of natural disadvantage: one for disabilities, one for unequal natural talents. For the details of these two insurance schemes, see Dworkin 1981. For a critique of the way Dworkin develops these two schemes, and the way he distinguishes them, see Tremain 1996; Macleod 1998: chs. 4–5; Van Parijs 1995: ch. 3; Roemer 1985a; Varian 1985.

11. There may be a better middle ground between ignoring and equalizing circumstances than Dworkin's insurance scheme. Amartya Sen's 'equality of capacities' scheme is one possibility, which Rawls himself seems to endorse for the handicapped (Rawls 1982b: 168; cf. Sen 1980: 218–19). Sen aims at a kind of equalization for those with natural disadvantage, but he limits it to the equalization of 'basic capacities', rather than the full-fledged equalization of circumstances which Dworkin rejects as impossible. The extent to which this is possible, or different from the results of Dworkin's insurance scheme, is difficult to tell (Cohen 1989: 942; cf. Sen 1985: 143–4; 1990: 115 n. 12; Dworkin 2000: ch. 7).

12. On the potential conflicts between liberal egalitarian justice and a right to privacy, see Arneson 2000a.

13. Other authors have made similar proposals, but put restrictions on how people can use their stakes—e.g. they can be used for education or investment, not for consumption and leisure (e.g. Tobin, Unger, Haveman 1988). Ackerman and Alstott consider a number of ways of financing such a scheme, in addition to the wealth tax. For some of the normative issues involved in wealth taxes, see Rakowski 2000.

14. I should note that Van Parijs himself also defends the basic income proposal as a kind of 'rent' that the employed owe to the unemployed in conditions of high unemployment.

15. For critiques and defences of the basic income proposal, see Van Parijs 1992, 2001; Groot and van der Veen 2000; White 2000; and the symposium on 'Basic Income? A Symposium on Van Parijs', in *Analyse und Kritik*, 22 (2000). For a variation on Van Parijs's proposal, which would tie the basic income to performing some socially useful activity, though not necessarily paid employment, see Atkinson 1996.

16. Of course, this approach can be combined with the others: one way to try to equalize types would be through granting stakes, or compensatory education, or basic income. For a debate about Roemer's proposal, see the symposia in *Boston Review*, 20/2 (1995).

17. For developments and refinements of Dworkin's scheme, see Richard Arneson's account of 'equality of opportunity for welfare' (1989; 1990), and his later account of 'responsibility-catering prioritarianism' (2000a; 2000b); G. A. Cohen's account of 'equality of access to advantage' (Cohen 1989; 1992; 1993); Erik Rakowski's account of 'equality of fortune' (Rakowski 1993); John Roemer's account of 'equality of access/opportunity' (Roemer 1993a; 1996). While they all use different terminology, and disagree about how precisely to define or distinguish voluntary and involuntary disadvantages, they share Dworkin's underlying intuition about eliminating unchosen inequalities, while providing space for inequalities due to choices for which individuals are responsible. Elizabeth Anderson calls all of these theorists 'luck egalitarians', since they are concerned to eliminate inequalities which are involuntary (or unlucky) (Anderson 1999). For related discussions of this general approach, see Lippert-Rasmussen 1999; Schaller 1997.

18. Note that whereas Dworkin argues that a just distribution would require *more* welfare redistribution than is currently provided, Rawls argues that a just distribution would involve *less*. He seems to think that market incomes in such a property-owning democracy will naturally satisfy the difference principle (Rawls 1971: 87), and indeed will correspond to Dworkin's idea of an ambition-sensitive, endowment-insensitive distribution (Rawls 1971: 305; cf. DiQuattro 1983: 62–3). Hence he opposes progressive income tax, and the extensive redistribution of market income (Rawls 1971: 278–9). Like Mill, Rawls seems to think that welfare provision would be 'of very minor importance' were 'the diffusion of property satisfactory' (Mill 1965: 960). But if Dworkin neglects the need to distribute property equally, Rawls neglects the need to redistribute incomes fairly. For even in his property-owning democracy there will be undeserved differences in market income due to differential natural talents, and undeserved differences in needs due to natural disadvantages and

other forms of misfortune (Krouse and McPherson 1988: 94–9; Carens 1985: 49–59; 1986: 40–1).

This points to another interesting difference between Rawls and Dworkin. Rawls thinks that the difference principle will, in practice, be similar to Dworkin's ambition-sensitive, endowment-insensitive distributive ideal, since the market naturally generates such a distribution. Dworkin thinks that the ambition-sensitive, endowment-insensitive ideal will, in practice, be similar to Rawls's difference principle, since neither markets nor governments can distinguish endowments and ambitions. Hence they both claim that their theory will, in practice, be similar to the other's, but for opposite reasons.

19. This shows the crucial importance, for any credible theory of justice, of having some theory of *state capacity*. As Bo Rothstein has argued, this is one of the major limitations of contemporary liberal egalitarian theorizing of justice (Rothstein 1992; 1998).

20. In other words, people's capacity to accept responsibility is affected by the good or bad luck of their upbringing. People raised in oppressive conditions—say, in conditions of parental neglect or sexual abuse—are less likely to develop capacities for responsibility or moral goodness. For an interesting discussion of how responsibility judgements can be made under such conditions, see Card 1996.

21. For an analysis of how illiberal welfare reforms have been justified 'in the name of liberalism', see King 1999.

22. It is unclear whether Anderson does or does not accept the Rawlsian/Dworkinian argument that involuntary disadvantages are unjust: she only says they 'might' not be unjust. For responses to Wolff and Anderson, see Arneson 2000a; and the electronic symposium in BEARS 1999. A related issue about the appropriate 'ethos' of liberal justice has been raised in the context of Rawls's theory. As we have seen, Rawls allows for incentives to be given to the naturally advantaged to develop their talents for the benefit of all. But why are the incentives needed in the first place? Why aren't the talented willing to develop and exercise their talents to help the less well off without demanding additional income? In some cases, the incentives may be needed to compensate for unequal burdens involved in the development or exercise of these talents (e.g. extra training, extra stress, extra risk). But Rawls clearly thinks that incentives may be needed in other cases, simply because the talented will refuse to develop and exercise their talents without greater rewards. Under these circumstances, Cohen argues, incentives are simply a form of economic blackmail by the talented. And the reason why inequalities between executives and workers is lower in Sweden or Japan than in the United States is because there is an 'ethos' of equality which discourages this sort of economic blackmail. Cohen argues that anyone who cares about justice has to be concerned with instilling such an ethos in society (see G. A. Cohen 1993; 1997; Murphy 1999; and the responses in Smith 1998; Pogge 2000; Estlund 1998; A. Williams 1998).

23. Hampton describes post-liberals as theorists who seek 'a more sophisticated way of ensuring the freedom and equality of all citizens in the face not only of governmental threats to these values but also oppressive social practices that persist despite the government's moral commitment to freedom and equality for all' (Hampton 1997: 203). For a similar argument about the need for liberals to take seriously social and cultural oppression, see Kernohan 1998.

24. I have primarily been concerned to show that the liberal-egalitarian view of an ideally just society endorses some fairly radical goals. It is a further question whether liberals should adopt radical means to achieve such goals. On this question, Rawls and Dworkin are explicitly reformist rather than revolutionary. They both argue that respect for people's liberty takes precedence over, and puts limits on, the pursuit of a just distribution of material resources (Rawls 1971: 303; 1982b: 11; Dworkin 1987: 48–9). I cannot discuss this issue here, although these stipulations seem unjustified in terms of the motivations of Rawls's contractors (see Pogge 1989: 127–48).