Luck and Liberty:  
The Political Economy of Life Chances

by

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Abstract

In the wake of growing unrest about economic disparities between the “one per cent” and other classes in western societies, I argue that an assessment of life chances in contemporary capitalist liberal democracies has assumed a renewed urgency. There are many other factors outside of a person’s socioeconomic position that can influence life chances, such as place of birth, education and income, in addition to intersections with race, gender, or ethnicity, so that the lived experience of class often has a distinctively multidimensional character. Still, the focus in this dissertation is directed at higher levels of abstraction dealing with the political economy of life chances as a feature of life in western capitalist liberal democracies—societies often promoted as the freest and the most equitable in the world.

To address these issues, I develop a conceptual test to demonstrate how unfair contemporary capitalist societies happen to be. I do this because too often debates about unfairness and inequality become squabbles about the accuracy of data and the suitability of econometric models but miss the point about ethics and exploitation; all of which distracts from reform. Developing this test has necessitated a movement through discussions of luck egalitarianism in the moral philosophies of liberalism and Marxism to demonstrate that much of what a person seeks to claim as their own is radically contingent. Irrespective of whether economic inequalities are caused by the genetic lottery of natural talents, the social lottery of opportunities to develop talents, or the market lottery where a person’s attributes become talents because they just happen to be in demand, are inherently unjust. Further, examining the role of market economies and institutional design in allocating life chances and rewards cannot be separated from a conception of what human flourishing happens to be and how it can likely be achieved.

To support the aforementioned analysis of inequality, I distinguish between two kinds of luck: hard luck and institutional luck. I take hard luck to be items that are contingent and accidental as determined via ontological naturalism and qualified modal realism. By institutional luck I mean entrenched structured allocations of life chances as determined by social forces. While there is a tendency to confuse hard luck with institutional luck, I argue that what often appears simply as hard luck has an institutional anchorage that to some degree can be amenable to human intervention. Thus any adequate discussion of luck necessarily commits one to consider politics.

Keywords: Social inequality; liberalism; Marxism; luck; redistributive justice
To the memory of John Gordon Humphries
and John David Timcke
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“When, and if, the next great depression comes along, any one of us may be completely unemployed—without income or prospects.”

Paul Samuelson
Introduction

Glasgow graveyards show even in death that class inequalities are visible. In nineteenth century Britain, Scottish families used different commemorative practices to honor the dead. Commoners used ordinary headstones while the wealthy used more expensive obelisks. The grave inscriptions reveal that those with obelisks lived longer lives. On average the men with commemorative obelisks died at sixty-five, while women died at sixty-three. By contrast, the average male Glaswegian died at age fifty and the average woman at age fifty-two. In the age of early industrialization, Glasgow’s poor bore the brunt of premature death. By the early twenty-first century one would expect the problem of premature death among the poor to be largely resolved. Yet, in contemporary Glasgow, differential life expectancy between Calton—an impoverished neighborhood—and Lenzie, a fairly well-to-do satellite town—is 28 years.

This is not a Glasgow quirk. In London, the differential between Chelsea-Kensington and Tottenham Green is 17 years. Such differences are just one small indicator of the stubborn durability of unequal life chances in Western societies. In the United Kingdom, 1% of the population hold about 15% of the wealth, and the top 10% own 40% of the national wealth.1 By contrast the average British citizen is three pay cheques away from destitution. In the United States, nearly half of total assets are owned by 400 people. To give some sense of this wealth, consider that in 2012 the stock market gains of these 400 people alone were more than the total amount of U.S. federal food, housing and education budgets combined. In another startling figure, since 1980 the 1%’s share of income has doubled, the 0.1%’s share has tripled, and the 0.01%’s share has quadrupled. By contrast 15% of Americans live in poverty, with many more

Americans financially insecure, and nearly half having no assets. This situation is worsening even while media outlets speculate endlessly about the prospect of economic “recovery.”

Globally, in 2012 the world’s 100 richest people gained $241 billion to reach a net worth of $1.9 trillion. This figure nearly matches the entire output of the United Kingdom. While it is true that the nine-tenths of the planet’s richest 1% live in the Global North, such vast differences in wealth are not exclusively American or British problems. Notwithstanding Brazil’s, South Africa’s and Nigeria’s growth, Latin America and sub-Saharan Africa remain the most unequal regions in the world. In East Asia, overall inequality has improved, in part because of China’s increases in prosperity. But China’s inequality is only slightly lower than the US and, by some indicators, South Asian inequality may be increasing.

Between 1990 and 2010, Global consumption grew by $10 trillion. Peter Edward and Andy Sumner found that 15% of that growth went to the global 1%. They make the point that,

the persistence of global poverty seems to have little to do with there being insufficient global growth and a lot more to do with a lack of

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2 Allegretto, S., (2011) The State of Working America’s Wealth, 2011, Economic Policy Institute, EPI Briefing Paper 292. Allegretto also notes that “The wealthiest 1% of U.S. Households has net worth that was 225 times greater than the median or typical household’s net worth in 2009. This is the highest ration on record.” p2


collective will among the secure/prosperous cluster to forego a small share of their benefits from global growth in favor of a fairly modest amount of redistribution to the global poor.

Their point is that growth is not uniformly beneficial, and arguably masks unsavory underlying trends around social class. Using the standard of people who live on less than $2 per day, Edward and Sumner note, “a modest amount of redistribution would have ended $2 poverty” over the past two decades. At the other end of the socioeconomic spectrum, William Robinson points to a small and distinct class of transnationally-oriented elites grounded in globalized circuits of accumulation.7 With slight institutional modification, the excesses of global capitalism could be dramatically restrained. Yet, the rich have a vested interest in stalling such efforts; and typically have the influence to do so.

Some of the roots to the current situation of durable inequalities in the world lie in the 1970s. A combination of anti-union legislation, regressive taxation, liberalization of financial and banking laws and privatization of public assets led to the offshoring of the manufacturing base and stalled wages. Hereafter things stopped getting better for the vast majority of ordinary working people. For example, in 1978, a typical male US worker earned $48,000 a year and the average 1%’er earned $390,000. By 2010, the median wage had decreased to $33,000, while the 1% rose to $1,100,000.8 The increased cost of living and the need to purchase services previously provided by the state forced people to supplement income with debt or dual-income families. Inflated house prices allowing extended mortgages and debt financing softened the blow, but such levies are no longer holding. By almost every measurable index, inequality is worsening and opportunities for the 99% are shrinking.

This political vulnerability is not an accident. Over the past decade, growing numbers of critics have argued that the 1% are, through their agents, systematically

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8 Adjusted for inflation.
stripping the 99% of their political, legal, and economic powers.\textsuperscript{9} Economic inequality stresses political solidarity and social cohesion amongst citizens while the poor live a life of ongoing precariousness. At the same time, the rich can generate differential political access and influence over subjectively desirable policies. For example, in Europe austerity politics has pushed economies to the brink of another recession decimating political solidarity. Socially, austerity tends to be nasty to immigrants, workers, minorities, and is contemptuous of the weak, while lionizing the wealthy. The moral economy of this system predicates a person’s worth upon their ability to make money, to boast how they need not use the state. An inability to do so is a sign of being of inferior capacity to capitalise upon one’s talents, or one’s apparent “choice” to be an ambitionless free rider. Besides, it is said, the wealthy do good things with their money. This investment and charity is cause to celebrate them.

Inequality in advanced capitalism is multidimensional so it would be erroneous to subject it to gross simplification. But a cause of this inequality is the dividends of growth slipping through a democracy deficit. The development of global inequalities that are based upon the different structural allocations of life chances is a characteristic of structural uncertainty. The rich maintain their stations in life, while ordinary people live and work in precarious circumstances. Indeed, some of the rich profit on the backs of this precarity. It is clear the current income distribution is the outcome of an ongoing historical struggle between capitalists and those they employ. Ironically, this situation is completely inconsistent with liberal principles of justice.

If one assumes that the amelioration of social inequality requires a major redistribution of life chances, my argument in this dissertation is that such redistribution ought to be based on a subtle appreciation of how luck occurs. By luck I mean circumstances where things that are out of one’s control and ‘could have been otherwise.’ The aforementioned categorical inequalities—welfare, economic, durable, global, political—frame the central concern of this thesis, which attends to the political economy of life chances in precarious times. I endorse the view that that social equality

\textsuperscript{9} The term ‘1%’ emerged in the mid-1980s from Democratic staffers working with the Congressional Budget Office when they sought to model tax changes. The movement Occupy Wall Street has since used it to try create a new class subjectivity.
is a necessary foundational component to an adequate theory of justice. This is because undue inequality exacerbates a general condition of alienation thereby hindering genuine human flourishing. Inequality is a legitimate and weighty grievance that can be appealed on metaphysical, political, and ethical grounds.

Determining what conditions make a system of allocation unfair, and whether these conditions are necessary features of that system, is the main thrust of this thesis. In this vein, I propose a method to understand the causal imagination that gives rise to different modes of justifying systems of allocation and distribution. I call this "modal luck-egalitarianism" and suggest that it is more suitable than current models to assess existing categorical inequalities.

The underlying appeal of "luck egalitarianism"—the body of philosophical literature in which I situate this project—is the demonstration that much of what a person seeks to claim as their own is radically contingent. Irrespective of whether economic inequalities are caused by the genetic lottery of natural talents, the social lottery of opportunities to develop talents, or the market lottery where a person’s attributes become talents because they just happen to be in demand, are inherently unjust. Further, examining the role of market economies and institutional design in allocating life

10 Unless specified otherwise, by justice I mean the substantive variety as opposed to formal, retributive, corrective, commutative, or restorative types. Here justice is a person getting what they are due by justified right. As a subset of this area, I am concerned with detailing the principles by which redistribution of resources can be assessed as adequate. In this conception justice itself has no intrinsic properties; it is rather an assessor designation of a set consequences that follow from a particular set of actions.

11 For now, I confine myself to understand the importance of equality, not with the efforts to secure this value, or what passes for equality in some societies, or the experiences of equality and inequality. I will address these issues in other venues. Furthermore, beyond the contents of equality, there exist questions as to who can claim these contents, and indeed whether the claimants inform the contents, or indeed whether there are differentials of equality based on the differences between claimants. While there are indeed merits that make this the prevailing view, there remains at least the requirement that one seriously entertain and refute on good grounds the claims on contents are due to groups or individuals, are local or global, must accommodate multiple generations, and lastly whether there is extension of equality to other species. Lastly, to provoke the question, is equality required between organics intelligence and inorganic intelligence such as virtual intelligences and artificial intelligences? I will set aside this question for the time being, but hopefully address it in the near future.

chances and rewards in contemporary society cannot be separated from a conception of what human flourishing happens to be and how it can likely be achieved.

Much of the discussion that follows is an exploration of these terms and formulations. However, at the outset I want to distinguish between two kinds of luck: *hard luck* and *institutional luck*. I take hard luck to be items that are contingent and accidental as determined via ontological naturalism and qualified modal realism. By institutional luck I mean entrenched structured allocations of life chances as determined by social forces. At times the concept of luck is often employed as a designator to naturalise structural benefit\(^\text{13}\); that is, when we invoke luck, it is often at the expense of seeing larger forces at play, or to paper over those forces. There is a tendency to confuse hard luck with institutional luck. But, I argue that what often appears simply as hard luck has an institutional anchorage that to some degree can be amenable to human intervention. Thus any adequate discussion of luck necessarily commits one to consider relationships between luck and politics.

In my view, the political analysis of luck should contrast causal imaginations and the actual probabilistic sequences that occur.\(^\text{14}\) To this extent, one needs to involve an understanding of perception, perspective and social roles. Here one needs to emphasize the contrast between institutional luck and hard luck. This task requires consideration both of people’s actually lived experiences and the ways those experiences are considered in politics and philosophy. For that reason, purely rhetorical uses of luck are

\(^{13}\) As Margaret Visser says ‘[t]he extent to which we take everyday objects for granted is the precise extent to which they govern and inform our lives.’ Visser, M., (1986) *Much Depends on Dinner: The extraordinary history and mythology, allure and obsessions, perils and taboos, of an ordinary meal*, Toronto: McClelland and Stewart, p11

\(^{14}\) Appreciation of causal relations between distinct items is key to understanding the intricacies of seemingly disconnected forces of immaterial financial economy and complex geo-political clashes. As a simple example, consider how the seemingly intractable conflict in African Great Lakes region was an effort to secure mines in the wake of minerals and metal commodity boom driven by productive demands in China, and consumptive demands in the United States. Those profiting from the proliferation of mobile devices are directly involved in the violence of this commodity chain. Persons in Goma are not suffering from bad hard luck so much as they are collateral damage from the competition for control of the commodity chain of extracted and refined minerals. As another example, one should not underestimate how much the 2012 American elections were exposed to global financial forecasts, quarterly appraisals, and how they affect US domestic markets. To a large degree, Obama was fortunate that economic prospects did not dip in the months leading up to the election.
excluded from the analysis that follows, as well as any consideration of the sincere, if mistaken, cultural and mythological forms of luck. I am less interested in descriptive linguistic usages of luck, and more interested in its ontological status. Furthermore, in the chapters that follow I hold that a methodological naturalist account of luck is possible, even preferable. It is important to pursue this to determine an ideal normative baseline. Yet, few people think of luck in these terms. We ought to be sensitive to the discrepancy. To provide an account that is both philosophically acceptable and sociologically relevant it is necessary to hang our hats on the social conditions we detect, modifying accordingly when the sheer exercise of reason is paired with verifiable detections or falsifiable claims.15

Given the centrality of justice to social encounters, it is not surprising that various academic disciplines have sought to study it. To select but two approaches, one could suggest that political philosophy has traditionally had a narrow concern with ethics, by which I mean the reasoning of appropriate action, whereas political sociology has had a narrow concern for political practice, by which I mean the struggle for power that can be found in many areas of life. But, an excessive concern for disciplinary boundaries can perpetuate the mistaken belief that political philosophy and political sociology are two alternative, sometimes antagonistic, ways of studying justice. This belief, however, obscures more lines of inquiry than it reveals. The primary cut should not be along disciplinary lines, but rather through an interdisciplinary focus on the ethics of power. In this sense disciplinary fidelity inadvertently divides what should be kept together: the ethical evaluation of political practices.16

15 There are some items which we have good reason to think that they certainly exist even if by their nature they cannot be observed. We can contrast this with items that under the right conditions we can verify, detect, and observe. The kinds of items I think we need to pay attention to fall into the second category, they have the possibility of being observed, if not necessarily the have been observed. One might notice that as detection techniques improve, so more and more items which we have good reason to think exist become observable, despite there being limits to what can be observed.

16 Or more aggressively as Piketty has put it, “The social sciences collectively know too little to waste time on foolish disciplinary squabbles.” Piketty, T., (2014) Capital in the Twenty-First Century. Cambridge: Harvard University, p32-33.)
The ethical evaluation of political practices relates to the distribution of goods in a fair and equitable manner and thereby relates to the totality of the production, circulation, and consumption of goods that benefit and satisfy human needs and wants. Given the complex interplay between luck and judgement, I attend to abstract kinds of goods such as opportunities, powers, rights, security, and well-being. This necessarily raises age old philosophical issues about relations between equality, justice and liberty. By the term “liberty,” I mean conditions where free will can be exercised, dignity is preserved, coercion is absent, and alienation is not a general condition of life. This conception of liberty does not aim nor expect to develop a specification of justice that will alleviate all intense dissatisfactions. One can live in liberty and still be dissatisfied as one could also live in poverty and be happy. Accordingly, my concern is less with attitudes, temperaments and dispositions and more with basic principles of fundamental justice. Drawing upon this approach I argue that today’s capitalist liberal democracies fall far short of delivering a mode of living that where all persons are able to flourish; arguably capitalist liberal democracy retards more liberty than it delivers.

To advance these arguments, I draw upon the writings and debates of a wide set of late twentieth century Anglo-American philosophers, many of whom have come to be identified with discussions of modern liberalism. My choice is not motivated by reasons of style, fidelity or presumed exceptionalism. My focus rests only on the fact that this generation of philosophers were concerned with putting political philosophy at the intersection of naturalist and normative considerations. This tradition of inquiry also has a certain ethical inheritance in favour of freedom, which I think important to embrace.

Granted, doing so does limit access to particular kinds of considerations often very much limited to life in the West. Writers who have influenced my analysis, such as John Rawls, Bernard Williams and Martha Nussbaum, all draw heavily upon Western canonical texts by Kant, Nietzsche and Aristotle. Even more narrowly, my reading of this Western philosophical tradition is necessarily limited in scope to issues and concepts that pertain to the analysis of luck. Having said that, I make no other apology for
confining myself to these sources; these are simply the most noted materials with which I have to work.¹⁷

Throughout the thesis I touch upon other wider philosophical problems and issues. A quick sample includes indeterminate complex sequences, compatibilist conceptions of responsibility, and other elements of justice.¹⁸ While it might be possible that my conception of modal luck egalitarianism can say something about these issues, or vice versa, it is beyond the scope of this thesis to evaluate whether or not that is in fact the case.

Similarly, luck is not neatly confined to matters of justice. It plays a crucial role in, and is centrally relevant to, debates with the philosophies of action, mind, and knowledge. Because luck travels across these terrains there are various species, plural definitions, multiple meanings, and different understandings due to various traditions of inquiry. It is therefore a mistake to think that luck has a precise conceptual designation.

As there is no neat concept that can be easily picked up for the kind of inquiry I propose, my analysis selectively draws upon David Lewis’ modal realism, and Duncan Pritchard’s epistemic luck. This anchors the definition in our knowledge of the ‘could have been otherwise’ requirement, but predicates it on actual probabilities as opposed to known probabilities, possibilities, or credence.¹⁹

In the opening chapter I define key terms and consider social contract critiques of unequal societies as they attend to issues of knowledge, labour, and liberty. These elements provide the impetus for a strengthened egalitarian turn in modern liberal thought. But, unfortunately, this turn is not yet complete. By invoking luck, I hope to

¹⁷ I view criticisms of this approach in the same light as someone who insists that the woodcarver must use metal, or that the painter must sculpt.
¹⁹ To undertake this investigation, I employ a kind of conceptual analysis. While a conceptual analysis is by no means decisive—any suggestion about what conditions are logically both necessary and sufficient to constitute luck is bound to be arbitrary given that the expression is used loosely, as well as applied amorphous that crispness cannot be guaranteed—it is helpful to get the ball rolling.
direct attention to areas that liberalism has overlooked and might be profitable to address. Additionally, I seek to demonstrate how liberalism’s ideals stand tall despite strong criticism. Still, despite offering a reasonable ethical inheritance and realist inclinations, liberalism needs methodological assistance. I argue that a reconstructed Marxist political economy can contribute a greater methodological sensitivity to the critique of domination that liberalism lacks. In the coming chapters I hope to substantiate this point by providing a more detailed analysis of institutional allocations of life chances.

In Chapter 2 I argue that a particular kind of liberalism can pass the test of the following question: ‘Does this reasoning really deserve our allegiance?’ and is therefore worth advancing. To accomplish this goal, I plot key contours of liberal theory—which include the presumption of liberty, the freedom of consciousness, the necessity of representative government—as expressions of a dialectical conception of the person. Herein liberals are willing to incorporate reasoning about actions and commitments using the burden and excellence of reason, allowing one to point out when some reasons are sufficient, insufficient, or deficient. This allows one to assess which actions and thoughts are sufficiently justified and which are not. In this defence of liberal reason, I resist attempts to reduce the person to nothing but this or that, or pose them as always already this or that. Rather it is vital that the designation ‘person’ can be practically operative at a lay level; otherwise persons themselves risk becoming alienated from their general self-understanding. There is no reason why such practically operative understanding need be necessarily hostile to, or mutually exclusive with, scientific, humanistic, philosophic, or religious understandings. But, I do maintain that it must be digestible to non-experts. Further I review how various strands in liberal thought have attempted to come to terms with the radical transformation wrought by modernity, industrializing economies, and political centralization thereby cultivating realist political attitudes. Lastly, I discuss how maintaining real prospects for a person’s ability to act otherwise can exist. In doing so my goal is to add a viable egalitarian principle to liberal conceptions of justice.

Chapter 3 moves to consider basic fundamental justice. Traditionally, liberal theory has barred a priori attempts to determine the good. The role of the state, as this theory goes, is to guarantee stability so that persons are free within reason to pursue any kind of civility they wish, provided it does not impinge the liberty of others. But this is
rather peculiar because liberalism claims to create a political order independent of moral and metaphysical questions, all the while invoking a particular philosophical anthropology and the metaphysics of reason. Still, liberalism cannot escape that in addition to providing the conditions for persons to pursue the goods of their choosing, it has notable value preferences. Moreover, to think an individual dimension of the good life detached from a social dimension requires that a person put absolute stock in deriving moral imperatives from pure rationality. But I show that this is a mistake as the good life has a social dimension. I incorporate this encumbered conception of the self into a plural system of justice that includes desert, need, reciprocity, and other 'elements of justice.'

To my mind there is little convergence between these principles. I am generally persuaded by plural concepts of justice, as they seem to assist in managing the problem of value pluralism. Yet, at the same time, I am also attracted to the possibility of finding a degree of convergence between this plural system. The 'solution' I offer is to defer to the liberty of consciousness's reasonable discretionary power. In my view, the role of principles is to assist thought about rules and conduct. To be explicit, what follows is not a decision procedure, but an opportunity to examine principles, testing the general standards of rationality upon which they rest.

Often, we are taken with thoughts that things could quite easily have been otherwise and that the reasons we have for acting on what we think matters are nothing but preferences and thoroughly idiosyncratic. In this line, Chapter 4 attends to the

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21 By contingent, I mean a state of affairs which is neither impossible nor necessary. In this respect, I take contingency to mean something different from that of Aristotle, who initially took the term to mean possibility: a state of affairs that is possible may also be necessary; however a state of affairs that is contingent cannot be necessary. This can be represented as such:
problem of radical contingency. Due to his longstanding engagement with the problem, Bernard Williams has advanced one of the most nuanced and subtle treatments of contingency, drawing attention to its implications for an ethical evaluation of political practices. His suspicion is that ethical commitments are not subject to a degree of reason, but rather turn on inexplicable preferences. Therefore there is little productive discussion to be had from attempting to reconcile, amalgamate, or rank these preferences. Another worry is that deliberation is overvalued, if not altogether pointless, if moral intuitions trump rational discussion. The dilemma is not one of reasonable plurality of commitments and pursuits, or the irreconcilability of judgements, but rather of a different kind altogether. The challenge is over the extent to which reason can explain moral intuitions. I counter-argue that Williams’ pessimism in the authority of universalizing moral claims could do with a touch of ironism, as exemplified by the virtues of fortitude, wisdom, self-affirmation and labor. This is not to release either reason or experience from ethical deliberation, but rather that to show these take their orientation from humanistic impulses.

In Chapter 5, I discuss Institutional Luck, that is, how a social structure skews life chances in particular ways. Herein I examine four processes. These are: 1) the reification and social distancing of life chances away from ordinary persons; 2) the asymmetrical burdens of risk carried by persons in different classes and their commensurate differential exposure to (un)foreseen hazards; 3) the extent to which systems have been simultaneously co-opted to support these ends and undermined so as to not be in a position to critically examine the systematic allocations of risk and life chances; 4) the institutional allocation and distribution of luck, both good and bad. A sociological understanding of these processes reveals how a society applies a reasoning process to things not well understood and how it proceeds to carve it up for political purposes. How we attribute our luck matters because it shows us the limits of what we try to claim for our own actions. In light of the above, two issues command the attention of normative theory. The first concerns the recognition of the extent that contingency effects political systems, goods, rights, obligations, responsibilities, decisions, and virtues. By inference, I argue that one understands a social order when we see it as but one possible outcome from other possible outcomes. What I mean is that the same basic elements could have led to other kinds of societies.
The primary argumentative arc of Chapter 4 and 5 is that irrespective of radical contingency, persons when faced with choices, however delimited, make decisions, and that the accumulated outcomes of these decisions and similar cultivations matter to them: It affirms their agency. I use this observation to substantiate my general claim that radical contingency matters to the extent that institutions allow it to matter, either through redress or neglect. In other words, while it is a moral dilemma, there is no necessary reason for radical contingency to be a trump card. This problem must be addressed should one want to establish grounds for modal luck egalitarianism: this is because luck-egalitarian arguments straddle the naturalist-normative border.

Chapter 6 examines the inequality fallacy. This is the mistaken belief that increases in equality automatically require a decline in living standards. Instead of a focus on living standards and sufficiency, I argue one would do better examining the transformation of the structure of inequality. In this vain, I initially review then reject Gregory Mankiw, Claudia Golden, and Lawrence Katz’s explanations for inequality. Hereafter I turn to Piketty’s concern with inheritance and structural exploitation via investments instruments, showing that his thesis is more radical than critics acknowledge. Having set my target on the radical contingency of inheritance and the institutional structure created to sustain its political potency, I attempt to develop a theory of the luck-egalitarian intuition with a liberal-pluralist theory of distributive justice and bring it to bear upon this problem.

Many liberals acknowledge how the social contract relies upon the extra-contractual elements to be successful, these themselves being difficult to express, formulate or codify. Marcel Mauss came to a similar conclusion in identifying that the advanced division of labour requires “the non-contractual element in the contract,” which is often the customs and expectations which are not easily codifiable. Similarly, the practice of fundamental political justice as it manifests in equality requires addressing the problems of redistribution of income and resources. But this is unlikely to occur without a redistribution of power, and it is hard to imagine this concession of power to be accomplished solely by appeals to moral volition. Revivals are rare, liberal ameliorative reforms are easily eroded, political parties are cautious of electoral defeat while civil society lacks institutional power. Moreover redistribution by definition shifts rather than
creates absolute new resources. Still, such sorting can put in place the preconditions for economic growth by putting resources into the range of persons who would otherwise be excluded. In this respect, I am generally committed to what C. Wright Mills termed the “politics of exposure,” that is revealing the mechanisms by which undue power and domination reproduce themselves. The reason for this orientation is that unfair allocation mechanisms deeply affect individual and collective prospects for human flourishing.

C. B. Macpherson once dismissed Hayek by perceiving that Hayek was “innocent” of political economy. Macpherson was mistaken. Having once been out-maneuvered, progressives can no longer be susceptible to the same error. C. Wrights Mills, speaking of American politics implored people to “drop the liberal rhetoric and the conservative default.” My goal in this thesis is to demonstrate how this requires that we be tender as well as tough.
Chapter 1.

Luck, Liberalism, and its Discontents

It is near impossible to disentangle egalitarian concerns from the wide range of philosophical issues and political crises that span and shape the history of Western thought. Luck and contingencies are of this sort. Fate, for instance, was a common theme in ancient Greek and Roman life. They appealed to the gods, sought prophecy, and consulted oracles. Fortune was personified in the goddess Fortuna who was capricious in her distribution thereof.22 In response to cosmic justice, Stoics and Epicureans sought to cultivate apatheia and ataraxia, attitudes that are indifference to Fortuna’s caprice. Chance appears in the Bible, with lots used to settle disputes, although as Proverbs 16:23 makes clear, the outcome is God’s will.23 Indeed, some branches of Christian thought believe that efforts to evade risk subvert God’s divine intention.

In medieval Europe, fortune shifted from a fickle relationship with gods to a fickle relationship with nature. This is apparent in the iconography of the Rota Fortunae, The Wheel of Fortune24; a water wheel motif that appears carved into medieval cathedrals. While handmade, the waterwheel is still subject to nature’s temperamental forces to turn. These characteristics can be illustrated by the Carmina Burana, a collection of poems written between the 11th and 12th century, which opens with a description of Fortune that is “ever waxing and ever waning.” Temperamental nature is expressly found in the in the opening to the Fortune Plango Vulnera. It translates as

23 Theologians generally tend to discourage lots, as it seeks to force God’s hand.
24 See for instance the iconography in Giovanni Boccaccio’s De Casibus Virorum Illustrium c1467
I bemoan the wounds of Fortune
with weeping eyes
for the gifts she made
she perversely takes away\textsuperscript{25}

Similarly, the temperamental character of nature is given an entire chapter in Machiavelli’s classic work in political philosophy, \textit{The Prince}\textsuperscript{26} According to Machiavelli, if people take the right precautions, they might be able to minimise their exposure to the whims of Fortune. He observes that what people often take for misfortune is the result of failing to take precaution. This is not so much ill-fortune, but, rather, a deficiency of the person to cultivate the requisite virtues\textsuperscript{27}

Still, Machiavelli argues that fortune is a real occurrence. He does so by invoking the metaphor of a raging river. When in flood, the river is able to make the land “yield to its violence.” In spite of this force men are able to make provisions against the possibility of a flood by building canals and levies. This imposition on fortune, though, is not absolute as provisions can often be negated by circumstances beyond human control. The raging river could be so strong as to overcome the levies erected to withstand it.

Machiavelli advises distinguishing between which (mis)fortunes are self-created and which fortunes provisions can be made for, while knowing that some fortunes are outside the scope of human control. Machiavelli recognized that while fortune is at times ambivalent, it is nevertheless multi-faceted and its effects can be influenced by the actions of humans. His work is a prime example of a pre-Modern thinker who recognized the ambivalence of fortune or luck. Medieval Europeans put considerable emphasis on

\textsuperscript{25} Translated by Yehuda Shapiro,
http://www.jmu.edu/orgs/acda/ensembles/chorale/carminatrans.htm
\textsuperscript{26} Machiavelli, N., (1988) \textit{The Prince}, Cambridge: Cambridge University Press, chapter 25
\textsuperscript{27} In contemporary terms, Machiavelli offers governors standard risk management council: If you are to ire, be on the right side of wrong; and do not be misled by complex variablistic systems producing Gaussian distributions because one outcome is as likely as any other.
the importance of fate. Living with powers and forces beyond a person’s control was a given.  

This vein of medieval European political thought was challenged by a growing desire to investigate, account for, and potentially control the forces that shaped the world. Informed by enlightenment approaches to evidence, and the promissory nature of inquiry, 18th and 19th century political thought placed considerable stress on removing luck or chance distribution from analysis. While gamblers and mathematicians such as Pascal and Fermat were the first to explore the patterns behind luck and established modern probability theory. Through the development and use of probability and inference techniques, people improved the accuracy of prediction. This search for certainty soon spread through the financial sector influencing insurance and business. A notable example is Edward Lloyd’s coffeehouse becoming a market for maritime insurance.

To extend Machiavelli’s metaphor of the river, people developed the means to predict when floods would occur. It was this mode of thought that eventually contributed to Weber’s statements regarding the ‘iron cage of rationality’ and the move towards excluding luck from rational accounts of the world. From this vantage, as Veblen observes, the belief in luck was considered an “archaic trait.” This tendency for ignava ratio is particularly acute when an event’s causes could not be accounted for or fully understood.

Modern theories of justice have an uneasy relationship with luck. Being methodically naturalistically orientated, one intuition is that if an account of justice allowed luck to play a key role, then this is a good reason for rejecting that particular system. This is because luck largely belongs to the collection of actions and forces that lie outside the realm of influence by human activity, and thus out of the reach of

28 Perhaps this is due to the nature of religious temperament and practice found within the period. However, further discussion on this item would be an unnecessary digression.
institutional intervention. But, similarly, implicit to any theory of justice is a sense of luck, since it demarcates what is in the orbit of human affairs and what can be influenced in its distribution. Emerging from the development of institutional governance, modern theories of justice are oriented towards the evaluation of actors’ actions, and seek to address the underlying causes of misfortune and injustice. Sometimes these kinds of harms are contingent, as Machiavelli pointed out.

Immanuel Kant’s transcendental idealism is perhaps the preeminent effort to morally and politically address unknown contingencies; the concise expression can be found in his essay On the Supposed Right to Lie. Kant asks one to consider the case of a murderer pursuing an intended victim. Suppose you know where the intended victim is hiding, and the murderer asks as to their whereabouts. The question is would you provide that information; would you lie? Kant says you should not. His answer rests on the possibility that the intended victim might have escaped his hiding place without your knowledge and that if you tell the murderer he is not there, the murderer could run into his target when moving on. But this answer appears to double down on a ridiculous position, reducing a serious issue into a case of moral slapstick when one imagines the two colliding. Thus the Kantian moral system has been criticised for being practically untenable.

However, this interpretation misses the point. Consider the series of things that need to occur for these two to run into one another; wrong identifications, opportunities missed and grabbed, a turn this way or that. The outcome is seemingly a question of luck. The point is that Kant highlighted contingency and the limitations of our control over the natural world. Kant’s goal is to deflate the hubris associated with the belief that we have absolute power over the consequences of our actions. While we do have some control over our actions and the consequences thereof, nevertheless, contingency plays a large role in human affairs and our powers are significantly less than our posturing and bluster presume. This point is particularly worth noting in societies beholden to scientism.

This example speaks to the grand scope of contingency, both in determining situations and outcomes, and the realisation that we must be frank about our epistemological limits. For this reason, because ends are not self-guaranteeing, Kant suggested that to be free and autonomous can only be to choose the constants of life; to select between different means and purposes. Kant calls these the “principles of right.” By this he means the selection of universal binding resolutions that reduce harm. Moreover: “Right must never be adapted to politics; rather, politics must always be adapted to right.” This argument establishes the foundation for most political arguments that give priority to right over “the good,” whether they are liberal, procedural, or constitutional. The general claim is that one can know rights, but one cannot know goods. The special claim being that political systems must be based on what is known or highly probable rather than what is arbitrary or less probable.

Kant’s point holds, despite being in a position, where to use John Searle’s terms, we have established “the basic facts of the universe” and have a somewhat clearer understanding of where humans fit in.32 Notwithstanding the sheer increase in scientific knowledge about the world, and near unprecedented cosmological turn of revolutionary proportions, I believe it is necessary to retain Kant’s epistemic humility. Although we do not always know what might result from our actions, we do have some degree of knowledge about the likelihood of certain outcomes. In the passages that follow, I bring this attitude to bear on the problem of inequality.

The Problem of Inequality

It would be foolish to claim that capitalism is the only social force that causes inequality. Dominance and exclusion have routinely been features of social groups of various size and combinations, with the corresponding limitation and withholding of

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32 As per Searle, J., (2007) Freedom and Neurobiology, New York: Columbia University Press. In 1755 Kant understood that the Milky Way was a rotating body of stars held together by gravitational forces, and he still maintained the Categorical Imperative.
privileges, offices, or statuses and the granting of these same items to others.\textsuperscript{33} It would be even more foolish to claim that capitalism is \textit{not} deeply embedded in creating and exacerbating various kinds of inequality.\textsuperscript{34} Early modern writers as diverse as John Locke in his \textit{Two Treatises of Government} and Karl Marx in \textit{Capital} attribute inequality to the social dominance of one force such that it eclipses other forces’ abilities to function as they might otherwise; a ‘domination disrupts nature’ thesis. Both Locke and Marx identify money as one such dominating force. This dominance applies not only to money being the end of transaction, but also to the dominance of the means of transaction, with corresponding ramifications for the items being transacted.\textsuperscript{35}

For example, Locke notes how the accumulation of wealth allows people to store more than they require, leaving relative deprivation in times of scarcity. Contrary to Locke, Marx notes how ownership for the purpose of wealth creation sees a drive for efficiencies at the expense of persons. To elaborate, initially this drive seeks to makes embodied labour (that is the labour time spent making a commodity) the same as counterfactual labour (that is the labour time necessary to make a commodity.) In doing so, this drive fails to treat persons as persons, but rather treats them more instrumentally as organic machines. Moreover, when more workplace efficiencies are demanded, machines come to replace men. Mechanization leaves people unemployed, underpaid, or in a labour market which has to account for the intervention of the machine. Here

\textsuperscript{33} In anthropological literature see Andre Beteille’s \textit{Inequality among Men}, Eric Wolf’s \textit{Europe and the People without History}, and Jack Goody’s \textit{Production and Reproduction}. These approaches tend to view inequality as a derivative of the ideological conception and material composition of the primary means of production and reproduction.

\textsuperscript{34} Undue preferential treatment has been a feature of most human societies and it can often be difficult to tally, reduce, and represent these forces as raw econometrics data. Nor can econometrics capture the intricacies and latent reasons of the social practices that contribute to inequality.

machines subordinate labour. In both cases desires for accumulation put undue stress on social relationships.\textsuperscript{36}

Central to these processes is that value, as measured by money, detrimentally eclipses other values. Both Marx and Marcel Mauss were particularly attentive to this feature. They were aware of how the fetishism of money, its apparent ability to render all items comparable, fuels inequality. It is not the process of exchange in itself that renders things equal. Rather it is the reduction in exchange to an abstract common unit. This supposed one dimensionality of value posits that all things can be assessed by a total of said units, such that their reasons for existence must be justified accordingly. In short, this is a critique of exchange logic, the fallacy that all items are commensurable. In philosophical terms it is the rejection of a monist conception of value.

In response to the domination of money and power, Locke and other proto-liberals sought to establish the rights of human beings such that their labour and lives could be respected, and that arbitrary power could not intercede in this area. They wanted to establish societies that sought to protect the attributes of persons, and that would negate the class system of the agrarian and feudal society as well as the political centralization occurring in European state building. Later, Marx, and many of his followers, argued alternatively that rights and representation were insufficient to achieve the task of political emancipation. Instead they sought to neutralise class altogether by dissolving property rights and restructuring the social relationship to the means of production. The orthodox Marxist tradition as developed in the Soviet Union, and Maoism as developed in China, sought to accomplish this through the bureaucratic apparatus set up by vanguard communist parties. While attractive for its philosophical elegance, to put it mildly, when implemented it caused catastrophic harm. More recent inheritors of Marxism have modified their approach and, instead, now call for approaches to the democratization of the means of economic production. Without doing too much of a disservice to the various positions on the matter, economic democracy generally requires that a social group’s relationship to the means of production should

\textsuperscript{36} While Locke and Marx had severe criticism of these processes, they both hoped that accumulation would prefigure the conditions for more just societies, these being either commonwealth, or communism.
not determine their status as persons; their class position should not curtail access to economic opportunities; there should be upward economic mobility; and that progressive taxation regimes invest in social services.

But apart from different vocabularies and allegiances, I fail to see practically how an idealized vision of an expansive economic democracy differs entirely from a revised and reconstructed liberalism. I hope to make the case in the next chapter that it is a distinction without a difference. Philosophical differences also become trivial and moot when one considers that both traditions seek to move from a society where arbitrary class distinction and life courses are determined by birth, station, and circumstance, to a society where these things are not the case.

Adjacent to the liberal-democratic, and the social-democratic critiques of inequality outlined above, one can plot an anarcho-libertarian position. Jean-Jacques Rousseau is a useful person to represent this position. His argument in the *Discourse on the Origins and Foundations of Inequality among Men* combined, as economic anthropologist Keith Harts puts it, the “critique of the unequal society with a revolutionary politics of democratic emancipation.” 37 Specifically Rousseau’s critique of inequality took the form that it was “contrary to the law of nature…that a handful of people should gorge themselves with superfluities while the hungry multitude goes in want of necessities.” 38 The critique stands on the premise that inequality is wrong because it deprives others of an imagined natural ability to reproduce and sustain their lives in the manner of their choosing. In other words, inequity undercuts autonomy.

It should be noted that Rousseau’s critique is not based on what we might now call the supposed unfairness of contingent attributes of a person and their natural capacities. Rather, it hinges on the hording of virtues and values, practices and positions, authority and allocation by some at the detriment of others. Hence some persons cannot live as well as they potentially could. In other words inequality harms human flourishing and liberty, both individual and collective.

This analysis was based upon an unconventional interpretation of the formation of civil order itself. Contra to social contract theorists, Rousseau proposed that civil order and the state cement inequalities, as opposed to providing the means to rectify them. To substantiate this position Rousseau claimed that the development of pastoralism had two social ramifications. The first was the acceptance of the domination and cultivation of nature, which once done successfully, allows persons to subjugate nature into a hierarchy. This template is repeated elsewhere where possible. The second was the development of land rights. These combine to form property rights.

Rousseau contends that the invention of private property is the origin of social inequality, private property here being understood as holding exclusive rights of use against the world. The critique has two horns. The first horn is based upon the opportunity costs that come from latent utility in denying an item’s use by others, in other words, not maximizing an item’s utility leads to depravation. The second horn turns on how much possession creates a means for exchanging items. This becomes solidified by contract to the detriment of those without the means to reproduce themselves autonomously.

The emerging consensus and social contract that rested on this social formation inherited an acceptance of inequality based upon the authority to exclude. Additionally, Rousseau claims that the social contract, at least at the time of his era and location, existed purely to perpetuate property rights. For Rousseau, the social contract favoured the rich, and hence the only recourse was to dissolve the state to try and establish legitimacy anew. Specifically inequality was symptomatic of human alienation. What was required to overcome inequality and alienation was to rid society of the division of labour, and return to a state of grace with nature; what Rousseau preferred and fetishized as the “nascent society,” a settlement pattern that emphasised direct contact with nature though hunter-gathering, a form of self-sufficient tactile involvement with nature that would remedy the alienation brought by civil life. In some cases, Rousseau prefigures various contemporary back to the land movements, ecological Marxists, and Green Liberals.
Following Rousseau, many have attempted to catalogue and account for the mechanisms that organise this type of social contract. The list ranges from believing that contracts mystify social relations, impose hegemony, indoctrinate and interpolate persons into ideological formations, coerce persons, are tyrannical, protect undue inheritance and so on. It is unnecessary to detail the precise contents of these mechanisms; rather it is important to note that each is based upon a critique of the contract itself. From this vantage contracts are always made between parties of unequal positions and different roles. For this reason, contracts are presumed to perpetuate human’s alienation from nature because they are judicial, rather than customary. In this respect, it is important to look how property rights uphold this.

Proposing that property is a limited right is to say that it is an enforceable claim. That means there are limits to what can be enforced, and enforcement must be balanced with other rights. In contemporary societies this duty falls to the state. For this reason property requires justification. On this point, for the philosopher, Jeremy Waldron, the issue is whether justification is even possible. His test is to judge the quality of the rights-based arguments favouring private property. To his mind, there are two broad approaches, the Lockean and the Hegelian. Lockean arguments claim that a person who uses his or her labour to legitimately modify an item can claim it as property. Hegelian arguments claim that property ownership helps a person’s ethical development as they learn to value items, so for this reason it is important to develop a property owning democracy. Waldron provides a tidy summary, writing that: “Both lines of argument hold that individuals have an interest in owning things which is important enough to command respect and to constrain political action.”

But there are good objections to both of these arguments. First, the Lockean position is simply a historical fiction, so we should not be satisfied with property being justified on these grounds. As for the Hegelian argument, while property ownership might assist in the development of particular kinds of virtues, it seems apparent that even people without property can develop the same virtues of care and consideration.

39 Marxists know this as primate accumulation, but would also hold that it this modification of previously un-owned items fits narrow historical conditions, which no longer exist. Property can longer be justified on this account.
Property, then, cannot be a necessary feature of a person’s ethical development. Lastly the desire to accumulate possessions can clearly lead to immoral conduct in certain instances, so it does not follow that the desire to accumulate wealth always induces positive ethical development.

C. B. Macpherson points to a third kind of justification, that being the right to reproduce the conditions for the means of life. So understood, it is not so much an investment in particular objections to the exclusion of others *per se*, but rather the attempt to ensure sufficiency. This is likely a more adequate understanding of property and life. Ensuring and protecting life is central to liberal philosophy. If we discard the narrow lay understanding of property, then this circumvents critics of liberalism who charge the philosophy with perpetuating a regime of possessive individualism that exploits people by excluding time from their lives, helps concentrate capital, and sets power relations between classes. Property is only useful to the extent that it can safeguard sufficiency for all and allow persons to develop themselves as they wish. For this reason, the distribution and allocation of common property to the point of sufficiency is good.

In Macpherson’s view, if we endorse Liberalism’s commitments, the present understanding of property rights is too narrow. Neglect of this issue is difficult to imagine, for how else could one develop an adequate liberal philosophy which aims to respond to actual lived conditions by not taking into consideration a property regime’s particular mechanics? Moreover, Macpherson contends, types of property regime are central to questions regarding the liberal order. Therefore, in making modifications, Macpherson

40 If one were to put stock in property being a necessary component of ethical development, then it would appear as if the Hegelian approach would provide additional grounds for distributive justice treating this as another kind of fair constraint on the rights of owners.

41 Aside from mechanics, Macpherson demonstrates that “the meaning of property is not constant.” Rather,

“The actual institution, and the way people see it, and hence the meaning they give to the word, all change over time. We shall see that they are changing now. The changes are related to changes in the purposes which society or the dominant classes in society expect the institution of property to serve.”

thinks that the concept still needs to be claimed by individuals, but must be expanded. His suggestion is to reform it as “The right not to be excluded by others may provisionally be stated as the individual right to equal access to the means of labour and/or the means of life.” This modification attends to the ability of the individual to claim rights to use items. It is thus a matter of being able to freely and autonomously advance a person’s projects. Conversely, the denial of some items for specific periods and uses may limit a person’s liberty insofar that the item is no longer available to advance their projects. If we push the limits of property accrual, then it is possible that one can have a society where some people have lots of property, and others next to none. The conclusion is clear: arguments which appeal to human rights are suspect, and are only a deployment to pseudo-legitimatize the inequalities found in advanced capitalist societies.

There is much value in Macpherson’s goal to rehabilitate liberal rights. Roughly, his rehabilitation is the right for life to reproduce the conditions for the means of life. So understood, it is not so much an investment in particular objections to the exclusion of others per se, but rather the attempt to ensure sufficiency. In this respect, Macpherson draws attention to a practical point about liberty: It seeks to empower persons to be involved in and set the terms for the decisions that affect their lives. Lastly, those familiar with Macpherson’s work will note how his reformation puts liberalism and capitalism in conflict suggesting that capitalism perpetuates inequality and deprives people of their liberty. In this respect, the problem of inequality is the total erasure of class conflict and struggle over the distribution of the social surplus.

**Liberalism’s Critics**

The organising task of modern political philosophy has been to respond to a set of questions regarding the nature of justice and the State. As Paul Kahn, the preeminent American contemporary conservative philosopher, writes, political theory, in one way or

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another has asked “What should the law be?” But he points out that simply devising and implementing a suitable legal framework cannot resolve the problems of political legitimacy. He explains: “the problem is not always how to frame a constitution adequate to our ideas of equality and dignity.” Rather, political legitimacy rests upon selecting a political philosophy that best approximates human nature. Doing so, Kahn argues, will provide “a sufficient aspiration.” By this he means a set of political ideas that can galvanize people to engage in the political process. In his estimation the liberal tradition is unable to do this. It is at a “dead end,” merely “offering minor variation on tired arguments.” This characterisation paints liberal arguments as little more than petty squabbles: much like the disagreements over the arrangement of lawn chairs at a garden party, they are simply irrelevant to larger questions of organization.

While sympathetic to Kahn’s initial observation that one needs to address the motivations behind legal structures so as to better assess their legitimacy, I balk at his characterization of liberalism as unable to provide ‘a sufficient aspiration.’ I also disagree over his priority of human nature. Of course humans are not infinitely plastic, so nature matters, but the conditions in which we find ourselves matter as well, if not more greatly. While I cannot control my nature, to a greater degree I can control my condition. One needs to face contingent conditions and maintain a moral orientation. On these counts Kahn’s view seems misguided.

While I hold that liberalism is a preferable philosophy for political life, it is not without critics, sympathetic and antagonistic alike. For example, contemporary Marxists charge that the basic structure and original position outlined by liberal thinkers, such as John Rawls, forecloses the possibility of political contention, subordinating all politics to simple administrative tinkering. Pragmatists object that the basic structure is “one class

43 Kahn, P., On his book, Political Theology: Four New Chapters on the Concept of Sovereignty, rorotoko.com,
http://rorotoko.com/interview/20110425_kahn_paul_political_theology_four_new_chapters_concept_sovereignty/ rorotoko.com
44 Ibid.
inside one epoch” masquerading as a final vocabulary. Feminists take issue that liberal philosophy does not entertain actual bodies. Activist political commentators, such as Chris Hedges, point towards a ‘Liberal Deficit’ where liberal politics cannot make due on its promises because liberalism neglects to directly address capitalism’s exploitation, thereby capitulating to power. Here liberals face irrelevance at best, extinction at worse. Marxists take this critique one step further, arguing that liberalism overlooks how market systems alienate persons because liberals are in an alliance with capital.

There are critiques from other vantage points too. For example, Critical Race Theory objects to the essentialist conception of the liberal person, liberalism’s structural determinism, and the inconsistent application of first principles. Thus, Delgado claims that due to radical contingency and structural discrimination, persons of colour have a different frame of reference that allows them to appreciate oppression and discrimination that societal members belonging to hegemonic whiteness miss. Liberalism, clearly, does not look promising from this standpoint. In a similar vein, Derrick Bell has argued that the American constitution, often described as the institutional embodiment of liberal ideals, privileged property over justice. Due to this longstanding entrenchment, he proposes an interest convergence theory to account for the particular instances of extending justice. The theory states that racial advances and civil emancipation will only come when they align with the interests of the (white) elite. Extending this thesis in The Price of Racial Remedies, Bell’s conjecture is that the project of hegemonic whiteness will fail to support civil rights policies if such policies threaten the social standing of the white historical bloc. In sum, Critical Race Theory charges liberalism with perpetuating the pretence that the rule of law subordinates all subjects in modern states without exception. This is a similar conclusion, albeit for different reasons, offered by post-colonial and post-modern

46 C. Wright Mills certainly had much to say of the value of liberal ideals, going as far as to say that they are "viable, and even compelling." The problem, Mills writes is that these ideas are "divorced from any realities of modern social structure that might serve as the means of their realization." Mills, C, Wright, (1967) ‘Liberal Values in a Liberal World,’ Power, Politics, and People: collected essays, London, Oxford University Press, p191
48 Richard Delgado and Jean Stefancic (1993)
repudiations of liberalism. Uniting these critiques is the belief that liberalism does not support social movements, but instead facilitates imperial actions.

In another, more self-consciously conservative, line of thought, several religious traditions see liberalism, with its freedom of consciousness and endorsement of the separation of church and state, as hostile to presumed public place of religious belief. Further, they are confused why Liberal philosophers—irrespective of their private beliefs—unapologetically advocate secularism in public affairs. But, such religious traditions overlook how a comprehensive conception of the good automatically conflicts with the freedom of consciousness (which was in part developed to protect religious belief), and how religious practice has been used as a coercive force for conduct and behaviour that might otherwise be morally unobjectionable. For this reason liberals render the ideal state as procedurally neutral without pre-designated goods. So, while liberalism has had a long history of trying to make accommodations for religious groups that reject liberal principles, liberals maintain that the state holds the right to intervene in the affairs of these groups should there be evidence of unjustified coercion, constraint from voluntary exit, and cognitive manipulation.

Communitarians and civic-republicans take umbrage with liberals for simply suggesting that cultural goods can be accommodated by liberal protections. A related criticism is that liberal neglect the space between the state and the individual. This is the space occupied by amongst others, family, communities, civic and religious institutions. These associations can be used to ward off the state. Charles Taylor, for instance, emphasizes that liberalism often overlooks how people’s ties to their communities have an inherent value aside from being a means to advance a certain other end.50 His concern is that actual values and motivations are neglected when liberals give priority to the right over the good.

This dispute turns on differing conceptions of the nature of the self and the tasks of political theory.51 As interpreted by John Rawls, liberalism has sought to reconcile

value pluralism, local prejudice, and vested interest over issues such as rights and
goods, values and distributions. Communitarians attend to the social nature of human
beings. Therefore while Rawls’ method is neat and tidy in proposing a case of precise
agreement, Communitarians charge that it promotes an abstract disembodyd and ‘pure-
chooser’ conception of the individual. For them the error is twofold. First, free will and
autonomy exist to the degree one accepts the basic structure that emerges from this
position. If this is the case, the conundrum emerges as to how one can both value liberty
and accept any one particular conception of the good? Second, this comes at the
expense of acknowledging that persons are created in lived circumstances with real
social relations. The error is to overlook that a person’s commitments, values, and
projects are not incidental, but rather constitute the self. The conclusion is that liberalism
offers little to practical political conduct and argument, thereby falling short of its own
aspirations.

In this respect the communitarian critique of liberal agency is reminiscent of
earlier critiques, such as C. B. Macpherson’s theory of possessive individualism and
Marx’s theory of alienation. These critiques share a concern that individualism neglects
to acknowledge that persons have a socially-constituted nature; that is that persons are
not asocial, or pre-social, but come into existence through society interaction and
encounters. The presumption is that a bond exists between a person belonging to their
community, the positive kinds of duties that come from participation in these activities,
and the goods that they produce that advance the common good and the personal good.

Through attending to the public good, persons contribute to the evocation and
maintenance of their society, which then allows them to pursue the ends of their
choosing, their good life. Thus deliberation and wide participation are features of a civic-
republican politics. For this reason communitarians emphasize virtues and the conditions
that are required for their cultivation, all the while aspiring for the excellence of virtues. In
this view, judgement is seen as a foundational virtue.

As Communitarians reject the pure-chooser and pre-social liberal self, they are
forced to reconcile the value of cultural membership with inherited commitments and
traditions. But a problem arises in that wholesale endorsement of diverse inherited commitments offers little comment on the normative content of these cultures’ practices. Moreover, a person or groups’ attachment to and interest in a particular practice is insufficient justification for that practice. Nevertheless, it is this partial attachment that gives people meaning in their lives.

In a similar vein, realist conservatives note that liberals like to claim that basic principles of justice—universality and consistency for example—apply to all. For example, as Paul Kahn points out, this does not match the bare facts of institutional practices, such as selective enforcement of the law. To explain such facts, liberals tend to point to poor governance, the lack of accountability and the like. Against this view Kahn argues that selective enforcement is a systematic feature of the political enterprise: Enforcement of the law rests not upon compelling norms but, rather on the willingness of political actors to use it as a tool to advance their agendas and secure their positions. All applications of law are the results of particular decisions. Further, Kahn points out, liberals are often somewhat blind to how factional interests seek to capture institutions and abuse them for their narrow ends in the formation of policy. To the degree they are aware of these practices, Liberals understand them through the lens of institutional failure or corruption, and hence the need for constant oversight to ensure that these same narrow self-interests do not capture the very entities established to police or control. Liberals neglect to see that the institutions are often well maintained by these narrow interests, and are duly diligent in performing most of their tasks, but do not follow through when stakes affect certain narrow interests. Liberals like to believe that institutions are self-correcting, but also are in need of constant reform to match the ideal measure that liberalism proposes, and hence the appeal to public reason, or reason, to displace the narrow interests.

But, this catalogue of complaints stem in part from liberal critics failing to concede that real political mechanics play out differently to philosophical ideas. The liberal state works better in some places than in others, in spite of these places broadly

subscribing to liberalism. Moreover, critics themselves often overlook how political efforts to disrupt liberalism themselves hinder liberalism from making good on its ideals. Liberalism is hardly the dominant or even sole intellectual tradition. This is not to suggest that political contention of liberalism should cease, but rather to underscore the aforementioned real political mechanics. Take for example the claims that liberals are at peace with the state. The charge is used as proxy to indict redistributive justice; for if justice relies upon the State for implementation, and but that social institution at its core is violent and corrupt, then how likely is it that any system of justice implemented by it be just? It is true that they appeal to the state to undertake actions, such as more humane incarceration, better education and food policies, less military adventurism and so on. This criticism, contention, and agitation for improvement are not the same as blanket acceptance. So these critics fall into the trap of sentimentalism, believing incorrectly at the absence of a particular kind of demonstrated concern for a particular topic indicates its absence altogether.

Alternatively with regard to the violent tendency of the state, war, and civil disobedience, let us use Rawls—the quintessential liberal philosopher of the 20th century—as an example. While for personal reasons he did shy away from public engagement, this does not mean that he was agnostic to war or violence in general. War was the very thing that turned him away from religious belief (although not religious temperament) and towards political philosophy. In his essay On My Religion, he writes about some of his military experience in the general infantry in the Pacific theatre, and his horror at the use of the atomic bombs, the discovery of the concentration camps, and the contingent death of a close friend. Rawls knew war. Moreover Rawls took an early public stance against the Vietnam War because as an unjust war. This was followed up in 1969 he choose to teach a class on the Problems of War because of its timely nature. Issues covered include ius as bellum and ius in bello, conscientious objections to serving in an unjust war, and civil disobedience. These ideas would find themselves articulated in Political Liberalism. There is also his 1969 paper “The Justification of Civil Disobedience” which established justified citizens as dissenters in publically and non-violently disobeying the law, within limits to the fidelity to the law. Such work provided philosophical support to the ideas of dissent of the civil rights movement. And in 1995 on
the Fiftieth anniversary of the Hiroshima atomic bombing, he published a paper condemning the actions, writing that they “were great wrongs.”

In short, liberals have often been at the forefront of reforming indiscriminate state violence. The French and English Civil Wars provided the hard lesson that unchecked power would create a world, to use Hobbes description, has “continual fear, and the danger of violent death.” Such a condition is intolerable to Liberals and their deep reverence for life. This is why liberal theorists demand that ‘might cannot be right,’ and instead seek to resolve political altercations via reason.

Critics misunderstand that the liberal state is a philosophical entity, and draws legitimacy from moral universal claims; shifting the political fabric occurs through the engagement and development of moral thoughts. To change, liberals require that reason be used to show moral harm or benefit. All persons, because they have the liberty to reason are in a position to identify potential injustices or prospects for greater good. So liberals are open to well-reasoned contention. In this respect, the critics of liberalism overlook how often the liberal imagination has propelled social changes. A truncated list includes the end of slavery, aiding the expansion of franchise and industrial democracy, women’s rights, civil rights and sexual freedom. Liberalism offers obvious and substantial benefits. It maintains skepticism of excessive political claims, whether they be popularists, plutocrats, or patriarchs. This is why in many cases entrenched elites have adopted liberal language. It is precisely because of its threatening and radical posture that opponents seek to pre-emptively hollow out its normative force.

Like any set of ideas, Liberalism responds to (and is formed by) the social problems of its day. The tradition has had to encounter messy politics not of its own choosing. Instead, one must examine how the canonical texts and ideas of the tradition have been used as torches to help lead and protect a person’s liberty. In my view, liberalism offers the kind of ethical inheritance and ideals that virtually no other political philosophy—apart from humanistic Marxism—can match. It also offers an ethical ambition where it sets the highest standards of epistemic justification while nevertheless maintaining their provisional status. Liberalism is always attentive to what persons’ are trying to justify and whether the reasons for that course of action or belief are sufficient.
This is a difficult test, and one which on liberalism has been found wanting on occasion, but one to which ideologues are unprepared to submit.

The Egalitarian Turn in Liberalism

At its most basic understanding egalitarianism is a political commitment to increase equality amongst a given population. Most normative political philosophies have what Nagel calls “an assumption of moral equality between persons.” Utilitarians give equal weight to a person’s interests; Libertarians maintain each person has an equal right to private property; Democrats an equal right to vote; while liberals tend towards formal equality of moral status, but not social status. What distinguished egalitarians is that they argue that there is good in persons being equally well off. Inequality lacks this value and hence needs to be avoided.

Inequalities are not always unjust—some are indifferent with respect to justice and so can be acceptable: Certain things can be, must be, unequal. But social heterogeneity attributable to capitalism is an injustice because it shapes preferences and distorts behaviour. This alienates a person’s tastes and actions from what they would have been otherwise in more just circumstances. This objective unfairness is a moral harm. Social inequalities, irrespective of consequence, say bad health, lower quality of life, are intrinsically unjust because contingent features of the market society produce them. Indeed, a market society is an economic system of moral luck writ large. Failure to reduce this unfairness brings into question whether there can be a meaningful social-wide liberty under capitalism.

One way to categorise inequalities is to assess them as either impersonal or person-affecting. Impersonal egalitarianism emphasises the general state of affairs as a bearer of the value of equality. Equality is a property of the society in which people live taken as a whole. Person-affecting egalitarianism emphasises how individual persons bearing unequal burdens bear the value of equality. This is to say that equality is a

matter of items that affect a person’s welfare so that they bear undue burdens and hardships, irrespective of their feelings on the matter. Person affecting egalitarianism cares about undue burdens even if the person bearing those burdens consent to them.\(^{55}\)

Another way to think about equality and persons is to distinguish between telic and deontic egalitarianism.\(^{56}\) Telic egalitarians hold that inequality is intrinsically bad, whereas deontic egalitarians object to the effects of unequal treatment claiming it is a form of injustice. Telic egalitarianism is wider in scope, as it confronts all inequalities, whereas deontic egalitarians might be persuaded that some inequalities do not matter because they are not the basis for injustice. In some respects this seems more reasonable and less stringent in comparison to telic egalitarians. Lastly, a telic commitment can be susceptible to the levelling down objection because it tolerates the lowering of welfare in the pursuit of equality, even if there is no increase in the welfare of others. Conversely deontic egalitarianism appears weak when assessing whether something is unjust, as a similar action for someone else might be just. The difficulty is that it does not specify which inequalities are unjust, just that some are, and that these may or may not matter depending on the persons involved. For instance, suppose Ada and Bill do not consider their differential wealth to matter, whereas Carl does. In other words, deontic egalitarianism is too susceptible to the preferences and tastes of the persons involved in the assessment. If this is the case, then deontic egalitarianism is unable to arbitrate between these versions. Altogether, a better approach may be to concentrate on the social inequalities that diminish a person’s moral standing.

Egalitarian sceptics might concede that social inequality is a burden to be avoided or alleviated where possible. Still, they might counter claim that in spite of longstanding disparities and differentials in such things as income, power or status, society has yet to collapse. The skeptic points to the relevance of the problem as it sits in relation to other problems, ones they might think are more worthy of attention. But, the skeptic has overlooked that the good of equality exists independent of whether it is


pursued or not. It is widely argued that social equality has worth regardless of efforts made to achieve it. Even if disparity and differentials did not threaten the stability of a society, there is a powerful impulse in western social thought to claim equality as a desirable state of affairs worth advancing.

Still, there is considerable disagreement amongst egalitarians about how strategically to achieve their desired state of affairs. Some give priority to the idea of increasing goods, while others advocate the importance of diminishing harms. There is also disagreement whether items such as political influence, statuses, offices, and positions should be incorporated into a consideration of equality, or whether they should be treated separately by other moral principles. However, if offices and titles are to be dealt with according to other moral principles, what then is the interface between equality and these principles, and indeed would some of these principles distract from equality in some unacceptable manner? Once these issues have been resolved, there is the practical question about how to implement these goals, and advance equality. Liberalism also stands by the belief that advancing equality must not come at the expense of liberty, as it stands, or the ability to reasonably advance liberty.

To the extent that he discusses equality, Rawls presumes that persons are equal in their moral powers, and equally capable of being reasonable. When designing societies such persons seek structures that incorporate luck-neutralising features, allowing qualified inequalities, but nevertheless maintaining priority for the worst off. His theory is difficult to categorise as pure egalitarianism. In marrying moral equality with limited economic inequality, some writers, such as Thomas Nagel, believe that Rawls’s theory is the paradigm of equality. Others, such as Norman Daniels, believe that Rawls condones inequalities.\textsuperscript{57}

Rawls’s relative egalitarianism is directed at social primary goods because they are the means to achieve the selected goods the person decides to pursue. In Rawls’ schema, social primary goods are listed as liberty, opportunity, the powers of offices,

income, and wealth. These things require a solution for distribution because these are
the things that any reasonable person would want, irrespective of their life course. The
difference principle decides the form of sufficiency and content of income, wealth, and
opportunity of equality.

By drawing attention to equality as a political commitment, Rawls set in motion a
broad discussion about the categorical and durable inequalities that persons face on a
daily basis, and the extent to which any of these inequalities are fair or deserved. In
support of the radical appeal to unfulfilled desert, Rawls notes that “[t]here is no more
reason to permit the distribution of natural assets than by historical and social fortune.”
Elsewhere he writes that “[t]hose who have been favoured by nature, whoever they are,
may gain from their good fortune only on terms that improve the situation of those who
have lost out.” These observations about radical contingency provide the rationale for
luck egalitarianism, a political theory that tries to synthesise desert and equality. Xavier
Marquez provides this example:

If the rich man who inherits his money cannot be said to ‘deserve’ that
money (he is just lucky), why should a person whose skills are suddenly
in demand be said to deserve the income he or she earns on that basis,
especially since our talents and skills themselves depend to a large
degree on things we inherited and on the complementary skills of others?
But, luck egalitarians say, a fair system of allocation cannot reward
people differentially on the basis of morally irrelevant features; it can only
reward or punish them for those acts for which they are fully responsible
(perhaps only hard work after adulthood, though even this is doubtful if
the propensity for hard work is inherited.)

Warren Buffett has written several times of his belief that, in a market economy, the rich
earn outsized rewards for their talents. It is worth quoting him at length:

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   Press p64
60 Rawls, J., (1999) Constitutional Liberty and the Concept of Justice, in Collected Papers,
   Cambridge: Harvard University Press p87
61 Marquez, X., (2011) Is Income Inequality Unjust? Perspectives from political philosophy,
   Policy Quarterly 7(2) pg 63

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A market economy creates some lopsided payoffs to participants. The right endowment of vocal chords, anatomical structure, physical strength, or mental powers can produce enormous piles of claim checks (stocks, bonds, and other forms of capital) on future national output. Proper selection of ancestors similarly can result in lifetime supplies of such tickets upon birth. If zero real investment returns diverted a bit greater portion of the national output from such stockholders to equally worthy and hardworking citizens lacking jackpot-producing talents, it would seem unlikely to pose such an insult to an equitable world as to risk Divine Intervention.

Even Ben Bernanke, the former Chairman of the United States Federal Reserve, has spoken of the role of luck in society writ large:

A meritocracy is a system in which the people who are the luckiest in their health and genetic endowment; luckiest in terms of family support, encouragement, and, probably, income; luckiest in their educational and career opportunities; and luckiest in so many other ways difficult to enumerate--these are the folks who reap the largest rewards. The only way for even a putative meritocracy to hope to pass ethical muster, to be considered fair, is if those who are the luckiest in all of those respects also have the greatest responsibility to work hard, to contribute to the betterment of the world, and to share their luck with others. 

Put plainly, Buffett and Bernanke propose that the wealthy are hardly wealthy because of merit. If this was simply confined to rewarding talent, while nevertheless unjust, it may be grudgingly tolerable to society at large. The egregious moral harm occurs when these “right endowments” are converted into political power. In other words, the consequences of the inequalities born of radical contingency create political inequality and domination. In this sense, intrinsic inequality produces bad social outcomes diminishing liberty in unjustified and unacceptable ways not just for the worse off. This prevents not only a society of persons with the same social status, but also those of the same moral status; thus persons are unable to respect one another’s liberty. This is because differential income is translated into differential influence, such that some come to dominate others.

Adequate remedy requires not just welfare redistribution but discontinuing the aforementioned domination.63

Sentiments like these have prompted considerable debate over whether egalitarian principles are suitable and amenable to the arguments of modern liberalism and the degree to which they can be incorporated thereunto salva veritate. Indeed, there has been a notable ‘egalitarian turn’ in liberal theory towards identifying inequalities that are morally arbitrary and hence undeserved by particular individuals and diminish their liberty unfairly, or bloat them for the beneficiaries of inequality. I have in mind inequalities that result from radical contingency, in particular, rather than those that might arise as a result of differential effort. In general this egalitarian turn seeks to position equality as the opportunity to apply differential efforts.

Daniel Markovits writes that there is a “historical affinity” between Luck Egalitarianism and Social Contractualism. This is because the “social contract method promises to model equal agency, by imagining choices in which fate has not yet intervened to give people unequal opportunities.”64 As Bernard Williams has said for equality, but which applies here:

…it is not really known how far, by new forms of social structure and of education, these conflicting claims might be reconciled, it is all the more obvious that we should not throw one set of claims out of the window; but should rather seek, in each situation, the best way of eating and having as much cake as possible. It is an uncomfortable situation, but the discomfort is just that of genuine political thought.65

63 This is why egalitarians are often suspicious of the equality of formal rights, believing that there remain substantive inequalities in spite of them, and sometimes inequalities are disguised or exacerbated by a rights discourse, hence there is a belief that rights are not enough, and that more substantive interventionist efforts are required to secure equality. However, some liberals argue certain kinds of egalitarianism intervention may harm liberty in unacceptable ways.


Without being too presumptuous, the discomfort of this reconciliation is the attempt to identify what Rawls called the “arbitrariness of fortune.” Rawls (1971) op. cit.66 Liberals have tried a luck neutralising impulse to these unmerited contingencies of life for distribution. On the whole they object to inequalities caused by luck.

The luck neutralising impulse has long roots. Mill, For example, observes that

The proportioning of remuneration to work done is really just only in so far as the more or less of the work is a matter of choice: when it depends on natural difference of strength or capacity, this principle of remuneration is itself an injustice. Mill, J. S. (2001 [1848]) Principles of Political Economy [SFU Electronic Resource]67

More recently, Rawls has argued that

Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view. Rawls (1971) op. cit., p71 68

Rawls emphasizes that morally arbitrary social circumstance and radical contingencies should not factor into an account of a “natural system of liberty” or a person’s share thereof.


a large part of the fundamental egalitarian aim is to extinguish the effect of brute luck on distribution. Brute luck is an enemy of just equality, and, since effects of genuine choice contrast with brute luck, genuine choice excuses otherwise unacceptable inequalities. Ibid, p116 70

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66 Rawls (1971) op. cit.
68 Rawls (1971) op. cit., p71
70 Ibid, p116
Egalitarians “object to all and only those inequalities that do no appropriately reflect choice.” In other words, they object to inequalities that are caused by brute luck, not because they are mere effects of luck. As Cohen points out, “Luck might cause one person to have more freckles than another: that is (in itself) neither an equality nor an inequality between them.” In Cohen’s mind,

they [egalitarians] object to the inequalities to which they object because they are inequalities caused by luck; that it is caused by luck specifies the inequality to which they object, and the aim to neutralise luck does therefore, contribute to specifying their egalitarianism (whether or not it is a justification of egalitarianism that it extinguishes the effect of luck on distribution.)

He thinks that luck egalitarians “focus on the difference between people’s advantages, and they count that difference just if and only if it accords with a certain pattern in the relevant people’s choices.” In this manner, one would need to think about responsibility and the ability to comprehend choice.

Both Daniel Statman and Andrew Latus hold that the lack of control is the only plausible necessary condition for luck. Statman defines luck as such:

Let us start by explaining what we mean by the term ‘luck.’ Good luck occurs when something good happens to an agent P, its occurrence being beyond P’s control. Similarly, bad luck occurs when something bad happens to an agent P, its occurrence being beyond his control.

This sentiment sits comfortably with luck egalitarianism. For instance, in recent years egalitarians have come to incorporate the moral significance of choice and responsibility into their considerations of equality. For example, G. A. Cohen writes

[Egalitarianism’s] purpose is to eliminate involuntary disadvantage, by which I (stipulatively) mean disadvantage for which the sufferer cannot be

71 Ibid, p117
72 Ibid, p117
73 Ibid, p117
74 Statman, D., (1991) Moral and Epistemic Luck, Ratio 4, p146
held responsible, since it does not appropriately reflect choices that he has made or would make.\textsuperscript{75}

Inequalities and burdens of a person’s making are not held to be bad, or take a lower priority when needing remedy. Here the goal is to make the distinction between chance and choice count with regard to redistribution and in so doing radically depart from rewards or disadvantages that arise from morally arbitrary means. Part of this turns on the recognition that these conditions need not have happened. The condition could have been otherwise.

A contributing sociological reason for this turn is that egalitarians in the West were struggling to draw a sympathetic audience for a pure equality of condition argument. The notion was presumed politically untenable because of the economic collapse of the Soviet Union. Hence egalitarianism had to accommodate itself in the prevailing intellectual, political, and economic climate. The manoeuvre was to discuss equality of condition under the rubric of luck and responsibility, therebycornering and co-opting portions of the reactionary argument about just deserts. Effectively luck egalitarianism sought to neutralize the effects of luck, good or bad, on life chances. Politically, it was envisioned that governments would remove the undeserved disadvantages that hinder a person from fulfilling their projects while simultaneously providing an additional rationale for redistributive politics.

Despite the aspiration of this reasoning, there is a difficulty when one attempts to be consistent. A society that attempts to neutralize disadvantages from luck to create equality of opportunity for individuals, but also to hold them accountable for their actions, faces a range of complex situations. In the case of health care, for example, situations may arise where imprudent or negligent individuals who make bad lifestyle choices are ranked lower in terms of service and resources than those who are sick because of their bad luck. Here the imprudent individual can be exposed to the risk of death, and cannot claim healthcare except on the grounds of compassion. A society is not obliged to treat or assist the imprudent. Moreover, the imprudent are burdens on the system of distributions, taking away resources from those who are prudent. Yet, there is something

harsh and vindictive about a philosophy that abandons the imprudent, but neglects to assess their imprudence itself as a matter of luck. Such a view does not seem to promote human flourishing.

Throughout the remainder of this thesis, I argue that liberalism can give due attention to crucial aspects of the human condition, while safely navigating the minefield of evaluative incommensurability, and attending to moral demands. Moreover, liberalism can do so without the hubris often associated with rationalist political reasoning. Presently, there is much debate within liberalism on how to advance the liberal project, as well as efforts to link liberalism with the developments in other branches of philosophy, but without being held hostage to these branches. The project is not at a dead end so it would be foolish to dismiss it out of hand. Still, liberalism has typically neglected fair consideration of some of the destructive forces of capitalism. In that sense, liberalism needs methodological assistance. Marxism contributes a sensitivity and descriptive insight that liberalism often lacks.

**Marxism and Material Inequality**

In lay thought, Marxist are often associated with a radical redistribution politics. This is because Marxist inspired political movements have long maintained that they have the ability to end class oppression, exploitation and inequality.

But such an attitude is a mischaracterisation of Marx’s own theory. This is because the central problem for Marx is not social or economic inequality per se. Rather, it is the problem of alienation. Indeed, the Marxist critique of inequality is arguably a by-product of the critique of alienation. Inequality certainly creates disproportionate hardships and burdens for the working class. But, more importantly, Marx argues capitalism distorts and degrades the character of human ‘species being’ through instrumental and objectifying social relations of class domination. In Marx’s vision of capitalism, the rich world of human social relations has been transformed into an alienating fantasy world of relations between things. Most of all, human beings’ own labour power, their very potential to produce the conditions of their existence, takes on an objective form as a commodity and commands them. In this way, capitalism works
against the autonomy and the ability of all societal members to pursue their projects and
develop their capabilities.

Beyond these general ideas, the tradition of Orthodox (or Mainstream) Marxism
has offered few other details. Absent are discussions of scope, contents, who is to be
equal, and when, or over what period, equality is to be measured. While Marxist theory
offers extremely valuable insights, it has little to say about the construction of democratic
institutions (beyond the general point that economic inequality limits political equality)
and even less to say about moral and ethical questions. Orthodox Marxism offers little
commentary on such aspects of justice, other than to indict them as forms of bourgeois
ideology. Marx himself felt strongly that any progressive politics worth its name
necessarily required a transcendence of ‘mere’ philosophical speculation. The goal was
the realization of philosophy in social events, a need to “change” the world instead of
interpreting it.

Over the past century the philosophical ground devoted to such issues has been
so well tilled that one hesitates to dig into it again. Yet, in my view, it is worth taking a
moment to rehearse once more some of the key reasons why Orthodox Marxism has
been impatient with discussions of moral commitments and normative arguments,
egalitarian or otherwise. On this point, I am persuaded by G.A. Cohen’s identification of
three problematic currents within mainstream Marxist thought. These are the doctrine
of Historical Materialism, the role of the proletariat as a universal class subject and the
belief that the abolition of scarcity is possible. To Cohen’s list I would add the
presumption that ethics is ideology; that a critique of capitalist exploitation does not
require a moral theory; and the suspicion of the extent of possible moral amelioration
within capitalism. Together, in my view, these predispositions have led Orthodox
Marxism to pay insufficient attention to the moral transition costs to a post-capitalist
society, and contribute to a failure to acknowledge plural justices.

Cohen begins his exposition of the absences of moral theory in Marxism with a
consideration of the teleological reasoning found in orthodox interpretations of historical

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materialism. History is in a state of becoming where the truth of the present can only be understood against the potential of the future. More importantly, and especially in Soviet interpretations of historical development, this process of becoming is supposedly guided by a logic that has moved social life to progressively higher forms of social organization, that will ultimately culminate in human emancipation through the socialization of the means of production. In its most mechanical rendering this gives the historical process a direction that can sometimes seem outside the realms of human agency. If history will ultimately provide the transcendence of alienation and inequality there is no need to specify the conditions, attributes, and contents of equality. Philosophical speculation and debate are pointless when world historical forces unfold according to a predetermined logic. By the same token, moral judgment is sanctimonious because social roles and their actions are determined not by persons themselves but rather by laws of history. When the revolution comes, the various class positions in society will be re-organized and re-allocated in accordance with the society at the time. Therefore, all that is required of people is that they ‘show up’, and are prepared to act when the opportunity presents itself.

Cohen refers to this as “the obstetric view,” where you help birth the next historical development. In the meantime, excessive concerns with ethics, ideals, norms, and basic theories of justice distract from organizing and preparing for the historical moment. But, given that this mechanical reading of historical materialism is a discredited understanding of social change, even for many contemporary Marxists,

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77 There is considerable debate whether Marx specified precise beliefs on the value of morality and justice, and whether these beliefs are indeed consistent and constant. Cohen writes that revolutionary Marxism neglects that conception of justice is at the core of the political project, while Sypnowich argues Marx’s critique of capitalism appeals to dignity in spite of his position that historical materialism proposes that dignity is a historical product. Despite these efforts, I do not think there is much to be gained from trying to divine Marx’s beliefs of justice to deduce a refined Marxist philosophy, or to point out that some followers have faulty interpretations. Suffice to say that it is evident that most Marxist’s do not concern themselves with ethics or moral philosophy. Cohen, G. A. (1981) Freedom, Justice and Capitalism, New Left Review, 126, 12, Sypnowich, C. (1990) The Concept of Socialist Law, Oxford: Clarendon, pp. 96–109.
Cohen argues that the Marxian tradition needs to develop an ideal theory of justice. In his view, an incapacity or unwillingness to do so has weakened the Marxist tradition. This is so not only because it diminishes, neglects, and obscures human agency, but also because it provides no help to make determinations between difficult choices, assess how to achieve equality, or determine what species of egalitarianism is suitable.

The second problem highlighted by Cohen is that Marxists have historically paid inordinate attention to the proletariat as the class required to birth the new arrangement of equality. This tendency is not only found in the most orthodox branches of twentieth century Marxism, it is also evident in the traditions of Western Marxism that were strongly influenced by the work of Georgy Lukacs in the 1920s. In this view, the proletariat is a universal class subject who produces the wealth upon which capitalist society depends, is exploited, and in constituting the majority of society needs the most resources and hence has the most to benefit from equality. The proletariat therefore not only has the potential motivation and will for revolution but its particular emancipation as a class carries the potential to lead to a more universal human emancipation. However, as Adam Przeworski argues, working class movements rarely adopt this role because they lack the power to decisively transcend capitalism. These movements therefore seek a 'class compromise,' where their power to damage capitalism is acknowledged and concessions are proportionately granted, such as minimum wages, and workplace rights. New arrangements for equality are unlikely to be developed solely from the proletariat. More notably, as noted by many late twentieth century critics, the idea of the proletariat as the universally oppressed class, whose liberation provides an end to alienation and domination more broadly, forecloses recognition, or makes secondary, other important axes of domination in social life such as gender or race.

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78 As Erik Olin Wright and Harry Brighouse write, one should take a "cautious view about what may or may not be possible rather than speak with absolute assurance about our knowledge of the future trajectory of capitalism." Wright, E. O., and Brighouse, H., (2001) Complex Egalitarianism: a review of Alex Callinicos, Equality, http://www.ssc.wisc.edu/~wright/Callin-rev.PDF, p39

Cohen’s third problem is the assumption of abundance. Marx thought technological developments in industrial society carried the potential to overcome scarcity, but this has not panned out. Scarcity is a condition that can constrain abundant equality. Hence there needs to be thoughtful ethical discussion of criteria of equality that take this condition into account. But Marxists have often viewed such discussion as mere ideology. In this regard ethical or moral discussions of the injustices associated with inequality are viewed as superstructural elements of specific modes of production. In short, justice is historically situated, and therefore comparative evaluations are unprofitable because systems of justice are generally incommensurate. It would be like claiming that one kind of art is truer than another. Instead, much like Adam Smith in *The Theory of Moral Sentiments*, Marxism develops what might roughly be considered a *sociology of morality*. In this respect, Marx is a critic of morality, viewed as ahistorical philosophical abstraction. It is true that capitalism does not disguise exploitation, imposes unnecessary servitude, and creates economic instability, but orthodox Marxism has strenuously resisted philosophical analysis of such things in favour of a critical sociological account that emphasizes the historical necessity of social transformation.

Again, this is not to say that Marxism has no tacit anchorage in moral evaluation. The very argument that humans have a social species being implies a practical standard for moral evaluation. Similarly, Marxism implicitly adopts something of a moral standard by virtue of its critique of capitalism as a mode for producing life that justifies exploitation, coopts existing relations and attitudes by tricking people into giving consent under the guise of volition, changes the values of objects by commodification, and naturalizes this as acceptable, inevitable and unchanging. In moral terms, capitalism alienates persons from one another, from their own creative projects and from flourishing as a humanely rational community. This is seen variously in the necessarily instrumental relations between the buyers and sellers of human labour power, the systemic subordination of labour to capital, as well as the subordination of the human potential of the working class to the will of the ruling classes. Furthermore, market returns are not seen to be awarded on the basis of responsibility or fair contribution. Yet, still, and despite recognition of all this, the Marxian tradition has maintained a decidedly sceptical stance to the problem of moral amelioration within capitalism. Orthodox Marxists, in particular, have tended to emphasise the limits to egalitarian reform that are possible
within capitalist societies. Instead, it is better to invest energies into a politics that can create space for more substantive change to a post-capitalist society.

This tension in Marxism is rehearsed classically in the “revolution” versus “reform” divisions between early twentieth century Communist Party activists and less orthodox Marxian inspired democratic socialists. In particular, a self-conscious concern for issues of morality and ethics in socialist analysis is a notable element of the British Fabian tradition of social reform that included writers such as William Morris and R.H. Tawney. This tradition made the promotion of egalitarianism one of the most pressing challenges of early twentieth century socialist activism. Put simply, the argument ran, because people are currently facing inequalities that cause avoidable moral harms, and, because capitalism is intrinsically unequal, it is simply unreasonable not to push for greater equality within capitalist societies. If harms and conditions can be reduced, we should do so. For example, this might mean internalizing externalities and eliminating rents. Second, practical reforms were viewed in the tradition of democratic socialism to be beneficial because they demonstrated and incrementally built the credibility of a more full-blooded egalitarianism. Together, these efforts could build trust in alternative institutional forms and methods that might prefigure more significant institutional modifications. Social democrats argued classically that if egalitarianism was to be politically successful, it had to offer well-designed, detailed, and well-thought out policies that the public could scrutinize and decide to support. If viable reforms cannot be developed within capitalism, one is unlikely to build a sufficient political coalition to transform capitalism.80

There is also an important strand of criticism both within and outside Marxist circles which emphasizes how Orthodox Marxists have largely overlooked the moral transition costs to a post-capitalist society. Costs incurred when transitioning to another system cannot be treated as mere technicalities to be dealt with as and when they occur. Orthodox Marxists have tended to side-step transition costs by projecting that the costs of staying in capitalism will increase beyond the costs to shift to an alternative mode of

production. They bank on capitalism becoming popularly intolerable as well as unsustainable due to a presumed self-destructive nature. In the long run capitalism will make any meaningful or satisfying reproduction of life impossible. But there is a strange sort of ambivalence in many branches of the Marxian tradition about the increase of hardships and social deterioration that will surely occur along the way, as if, in the end, it will all have been worth it. In contrast, others in the Marxian tradition are more willing to argue that the transition costs of the development of socialism still matter morally, for the rich and the poor alike. Erik Olin Wright and Harry Brighouse list “poverty, loss of educational opportunity, increased financial and physical insecurity, increased levels of property and violent crime, worsened life-expectancy, higher infant mortality rates, etc” as some of the costs worth considering. While production is disrupted there will likely be suffering, and “aversion to this suffering is neither irrational nor immoral.” It could be that presently, the costs are too high to switch systems entirely, and in the short term less costly pragmatic reforms are more suitable.

Lastly, Orthodox Marxism tends to have a monist value system (which rivals that of capitalism) whereby a society can be created where work is done not because of coercion or compulsion, but for its own sake. The preoccupation with a romantic conception of artisanal work arguably comes at the expense of consideration of other legitimate values. While remedying the problem of alienating labour is a good thing, this cannot come at the expense of other kinds of goods or other kinds of values. There are rightly other values, such as those associated with free play or spirituality, that may well be as important in human life, if not more important. In failing to acknowledge plural values as well as the constraint that not all plural values can be realised, Marxism has largely failed to respect the self-determination of people to live in liberty.

The same criticism can be extended to the role and purpose of the market. Traditionally, Marxists imagine a post-capitalist economy to include decentralised democratic planning with minimal market determinations of action. Further, the welfare of this economy must be higher than capitalism, and come without unacceptable loss of efficiency. Further still, there should also be equality of opportunity no lower than other kinds of systems.
However, achieving an increase in welfare may well be doubtful without markets. As Erik Olin Wright and Harry Brighouse argue, markets exist not because of greed, competitiveness, innate individualism or the like, but because of the impossibility of efficiently integrating all of the details of extraordinarily complex, large scale, rapidly-changing economic interdependencies through co-ordinative plans (democratic or otherwise).\(^1\)

Markets are great mechanisms to resolve co-ordination problems in an economy with a complex division of labour. Simply having a preferential aversion to markets does not diminish their utility. In repairing our societies some post-Marxist’s have stressed the need to take what is valuable about markets and find suitable institutional means to regulate and limit their abuse, while harnessing their productive capacities. Hence Marxists’ need to be tolerant of some kinds of market produced inequalities, although politically attentive to their rectification.

Having detailed the shortfalls of traditional Marxist criticisms of socio-economic critiques, let us now try reconstructing what a Marxist moral tradition might look like. Western Marxism is methodologically supple and offers a useful heuristic standpoint from which to study how culture, contingency and judgment shape material conditioning. Notably, the language of alienation and exploitation has an unmistakable moral quotient and Marxism is purportedly a clear expression of the requirement to overcome alienation and conditions of exploitation. From this vantage point, capitalism is unjust for two reasons. First it seeks the total economization of human relationship which limits prospects of the good life. Second capitalism renders a historically situated conception of justice as ahistorical. It is not only inherently morally unjust but engaged in practices to disguise exploitation and alienation as morally acceptable.

At the core of the Western-Marxist moral critique of capitalism is the argument that capitalism does not take account of ‘the whole person.’ Instead, persons are treated as means subordinated to the imagination and will of others. The irony is that workers, and even those who direct the workers, become the extension of other people’s goals

and ambitions, which themselves are directed by an irrational desire to consistently apply rationality to everything. Herein, all persons fail to fully realize themselves.

In response to this, I find some utility in adopting Rawls’ distinction between procedural justice and fundamental justice. This distinction renders the critique of ideology as a critique of judicial practice while preserving jurisprudence that attends to freedom, action, and conduct. To help achieve this goal, I take considerable inspiration from the tradition of analytic Marxism that developed in the 1980s in association with the work of writers such as G.A. Cohen, John Roemer, John Elster and Erik Olin Wright. My attraction to analytic Marxism resides in the great extent to which writers working in this tradition sought to incorporate a rigorous discussion of justice with the broader Marxian analysis of historiography and economics. There are other branches of late twentieth century Marxism that offer standpoints for an ethical critique of capitalism but not, in my view, with the same degree of conceptual and philosophical rigor as analytical Marxism. Unfortunately, many of the insights of the Analytical Marxist tradition were pushed to the intellectual periphery by the wave of postmodern and postmarxist thinking that swept through western social thought in the 1980s and 1990s. But, today, in the “age of the 1%” I find merit in revisiting and recovering some of the key ideas and arguments from the analytical Marxist tradition.

A Reconstructed Marxist Political Economy

One important benefit of the Analytic Marxist approach is their willingness to abandon questionable theories of surplus value and the labor theory of value. The labor theory of value is mistaken, in their view, because socially necessary labor time does not determine value, nor does labor create value; this is because value is a judgment, not a production. This move undermines critiques which suggest that Marxism is predisposed to transcendental totality. This is because Analytic Marxists were frank that Marx’s analysis is drawn from the limited data set of European State formation, and that their own analyses have epistemological limits as well.

Fundamental justice in this vein involves granting that persons have freedom to foster their self-development and their society through advancing the productive
practices that take full consideration of the aspirations and projects of a society’s members. The obstacles to building an alternative political system rest not with false consciousness, conditioned needs, or widespread ideological deception. Rather, the attractiveness of alternative institutional models needs to weight that the somewhat unknown prospects of flourishing (including transition costs) against the known prospects for flourishing within capitalism. But necessity projections for this alternative should be plausible, credible and achievable.

If this proposal is to have any legs, it needs to provide the outlines of a reconstructed political economy. A good place to start is with some of Cohen’s September Group colleagues who focused on developing both abstractly and empirically powerful specific causal explanations. To drive this research agenda, Erik Olin Wright, suggests four distinct attributes. These are a commitment to standing epistemological standards and rigor, logically and systematic conceptualization, clear and explicit detailing of the connection between theoretical parts, and an emphasis on persons’ intentions. Together these points are foundation of the Analytic attempt to elaborate upon Marx’s methods. They can be summed up by Wright when he notes that, “Whatever else one might want of a social theory, if we want to understand the mechanisms through which a given social cause generates its effects, we must try to understand why individuals act the way they do.”

The concern for the person and their situated actions is important insofar that one cannot escape the attempt to explain things away by vaguely waving at macro historical processes. There must be due attention to both the person and the historical juncture. In this respect, Analytic Marxism implies a deep moral engagement with a person’s actions, in that they cannot abscend from their actions, intentions, and responsibility. With these comments in mind John Roemer has attempted to flesh out the tenets of a robust Marxist political economy. This framework holds:

- A commitment to the malleability of human preferences, to the social formation of the individual;

• That the neoclassical theory of welfare economics is weak and misleading, because of the non-autonomous formation of preferences;

• A commitment, based on a certain reading of history, to the importance of collective action, and power in solution processes; in particular, class power and class action, but more generally nationalist power and perhaps religious power. In competitive equilibrium theory, no one has any power.

• A belief in the injustice of capitalism, and the transiency of it, which flows from a historical worldview, based on the evolution of forms of property.83

As an example of this analysis, with respect to class, Wright says “To be in a class location is to be subjected to a set of mechanisms that impinge directly on the lives of individuals as they make choices and act in the world (emphasis added.)” The attention to persons is because “To develop a concept of class structure at the micro level of analysis is to elaborate the concepts in terms of such mechanisms.”84 In short, these kinds of sociological explanations keep persons at the heart of the political process.

Another attribute of Analytical Marxism is that it takes aim at dialectical logic. With the appearance of induction, but far from Mill’s Methods and other rules of inference, dialectics seems attractive: As Roemer remarks “things turn into their opposites, and quantity turns into quality [justifying] a lazy kind of teleological reasoning.” Glibly, he continues

Developments occur because they must in order for history to be played out as it was intended. Thus state actions are explained by their effect of propping up existing regimes; capitalism foments racism and sexism among the working class because those ideologies weaken working class power and strengthen capitalist power; schools mis-educate working class children in order to maintain bourgeois power.85

This passage underscores Cohen’s argument to discard dialectical materialism and one dimensional historical roles of entities such as the state, capitalists, working classes, and capital, while affirming the possibility of causal explanations.

85 Roemer (1985) op. cit. 1439
As an alternative to teleological explanation, Roemer contends that “Marxian analysis requires micro-foundations.” These, he argues, can come from orthodox economic techniques concentrating upon externalities and show the “unintended consequences of rational action” and “the sub-optimal allocations resulting from individual optimizing behaviour.” Therefore, I suggest that one goal of an Analytic Marxist political economy is to attend to the consequence of individuals’ uncoordinated behaviour without the post-hoc revisionism that accompanies the application of dialectical and teleological reasoning. This goal keeps collective action problems at the forefront of Marxism.

In addressing this method, Roemer argues that one can repurpose the tools of rational choice models—these being “general equilibrium theory, game theory, and the arsenal of modeling techniques developed by neoclassical economics.” This moves Marxism away from empty and obscurant teleological claims and reorients it to the explanation and explication of causal mechanisms to explain pay differentials, unemployment, and technological change amongst others, and attribute them less to the specter of capital, and more towards the person’s involved in the actions of exploitation. Importantly, this identifies the spaces where class struggle can and does occur, as well as identifies the “social formation of ideas,” and “the formation of individual by society.”

There are two problems with the current application of orthodox economic techniques. The first is methodological individualism, this being individuals and their preferences are taken as a pre-social given, whereas they are largely conditioned by social factors. Therefore, as Roemer suggests “People do not always choose what they prefer.” The implication is that a person’s welfare preferences are shaped under conditions of inadequate opportunity. Therefore a study of existing needs, wants, and desires is prematurely delimited. But this is not a problem of techniques and method, but approach and methodology. The second is an impoverished view of history. Generally,

86 Roemer (1985) op. cit. 1439
87 This is not to have unqualified endorsement of all neoclassical models, nor all of their ideological or disciplinary presuppositions of macroeconomics and fiscal policy. Rather it to attempt to use explicit models and critique thereof as an alternative to teleological claims.
the capitalist rendering of history is that each class earns its due reward. Orthodox economic techniques are then deployed to confirm this finding. Therefore what is required is not a critique of this or that economic technique, but rather a more fundamental methodological conception of history which these methods are deployed to enforce.

In this respect, in my view, Analytic Marxism offers two primary contributions over other branches of Marxian analysis. The first is a sociological critique of the relationship between property, technological change, and class struggle. The second is a normative critique of undue alienation and exploitation so as to measure the welfare of various members of a given society. One can turn to some of Wright's work to illustrate how this project is brought to action. Whereas, for Marx, all workers were exploited, Wright has sought to refine the concept by detailing the kinds, types, and means of exploitation. To his mind, there are three criteria to exploitation. These are the inverse interdependence principle, the exclusion principle, and the appropriation principle.

The inverse interdependence principle states that exploitation occurs when the material welfare of one class causally comes at the expense and material deprivation of another. In capitalism, capitalists cannot exist without exploiting other persons and causing relative deprivation in their lives. This brings one to the second principle, the exclusion principle, which means that capitalists have excluded other classes from access to certain productive resources. This exclusion could be property rights, but it could be technological expertise, prestige, or knowledge amongst other things. Building upon the two previous principles, exploitation occurs when the effect of labor is appropriated.

By posing these criteria, Wright demonstrates that exploitation varies qualitatively, and that economic oppression may exist without exploitation. Consider for instance when one class's advancement does not come at the expense of another, but still has not improved the lot of the economically least advantaged. These people are still economically oppressed despite the lack of appropriation of their labour. In other words, the advancement of one class comes despite, not because of the presence of another. Wright also wants to show that there are different kinds of exploitation. For instance, the
kind of exploitation faced by a skilled programmer with stock options is different from the exploitation faced by clerical workers. This is partly due to their respective positions and degrees of access relative to the means of production. So there are kinds of workers who own a portion of the means of production, or participate in the control of production. This can happen through worker’s pension plans invested in the market, stock options and shares, or administrative positions.\textsuperscript{88}

To this class schema, one can add authority as well as skills and expertise. Regarding authority, Wright points out the ownership over the means of production provides the discretion to hire and fire employees. Production requires not only economic capital but the management thereof. Often Capitalists delegate authority to subordinate managers, but given their status as workers, Capitalist have to provide high salaries to buy them off. Regarding skills and expertise, apart from differential talent, these are limited by scarce opportunities and the high cost of acquiring credentials.

Class structure is even more complicated when one considers that a person can hold multiple class positions. As an example, consider a programmer who works for a company, but who also has a small internet business which employs a few staff members. She would occupy two different class positions. A person could also have mediated class positions. Our programmer could have friends who own bigger businesses and friends who are simply workers. Via empathy and friendship the programmer could affiliate with their class concerns. Similarly, via familial relations, one can have affiliated class concerns. Lastly, suppose our programmer’s internet business grew to the point that they could leave their job even if their total income might not increase. The programmer’s class position has changed, although they still could affiliate with their previous class position.

This breakdown of class formation does not fragment the concept, nor dilute its explanatory power. Rather it does the opposite. Reconstructed in this fashion it offers the opportunity to offer more detail in the analysis of class consciousness as it relates to

class struggle as a kind of collective action. Moreover, when this typology is combined with the techniques of orthodox economics it gives an enhanced set of conceptual tools to identify where class struggle, bargaining, and collective action are possible, and what the particular constraints are on that kind of bargaining. For example it can determine under what conditions class struggle might be able to break various kinds of constraints, or to overcome the impression that it is individual from an individual’s point of view. This kind of account of class struggle it attuned to how persons act in accordance with their preferences and endowments, as well as the factors that led them to organize with others to oppose capitalism. Further this account focuses on the various social costs and penalties that limit participation in coalitions seeking to tackle exploitation and alienation head on.\(^89\)

Cohen suggests that a theory of justice consistent with Marxism would take capitalism’s exploitation of the worker as its target. This conception of justice is not predicated upon the labor theory of value. Admittedly there is little uniquely ‘Marxist’ about this line of argument; it is similar to varieties of liberal conceptions of justice wherein the least well-off persons are given priority and sufficiency. My thought here is that Cohen’s target is too narrow. Rather, the concern should be with alienation of the person from genuine quality prospects to make good on their reasonable aspirations. For Roemer exploitation is best understood as “an injustice in the distribution of income resulting from a distribution of endowment which is unjust.”

In this regard, both G. A. Cohen and Roemer have argued that reconstructed Marxists should be more attentive to and incorporate elements of liberal political philosophy of the kind practiced by Ronald Dworkin, John Rawls, and Amartya Sen to “constitute a desirable and just society.” The benefits of such an engagement would include incorporating the normative base of liberalism with the explanatory power of Marxism, its recent ‘egalitarian turn,’ and it’s development of fairly robust ideals of autonomy and liberty which are not mutually exclusive with Marxist theory. These attributes can strengthen areas where Marxism has traditionally been weak, such as its agency deficit. For this reason I take Cohen’s advice and engage the problem using the

\(^{89}\) Moreover, what makes coalitions stable and decreases factions from emerging.
resources of liberalism; much of the discussion that follows is shaped by an attempt to marry the ethical ambition of liberalism with the methodological realism of Analytical Marxism. In this vein, I think it is more appropriate to refer to a contentious individualism as opposed to a methodological or possessive individualism. This is a major theme of many social democratic movements in the world, with the goal of socialism as something that can be harmonized with selected aspects of the liberal tradition and realistically implemented.

Egalitarianism and Engaged Political Philosophy

One supposed difficulty with a self-consciously engaged political philosophy is that it proposes frictionless ideal theories which presume full compliance; in other words a just society where everyone will follow the rules. Full compliance is routinely justified by appeal to rational actors, or imagined populations comprising reasonable persons. Work in this vein is important in that it establishes an aspirational ideal by which to assess our current set of actions. In other words, it provides a means to assess whether we are modifying our political institutions and practices in the right way.

At the same time, however, human beings are not fully compliant. Partly this is because we are not nearly sufficiently rational or reasonable as we could be or we would wish to be. As one economic commentator has noted, we are “predictably irrational.”\textsuperscript{90} But even if we were more rational, more reasonable, it is arguably irrational to expect people to be fully rational.

Not being sufficiently rational is not a simple deficiency that can be corrected, nor should it. The human condition is constrained. To give two basic examples, we cannot decide to believe without self-deception;\textsuperscript{91} and our perceptions of events (or even what we consider to be events) are guided by our physiological properties and psychological


\textsuperscript{91} Williams, B., (1973) Deciding to Believe in Problems of the Self, Cambridge: Cambridge University Press
predispositions. In sum, beyond being imperfect creatures, we are creatures with a particular nature. Therefore, no matter how ideal a political theory happens to be, we will never be able to consistently match it. It therefore makes a moral difference how, and to what extent, our limitations are accommodated. Too little, and we risk not holding ourselves sufficiently accountable; too much, and it becomes a hyperbolic fool’s errand.

Our imperfect condition means we are unable to attain the moral and political ideal, but it does not mean that we cannot attain a human ideal, one that nods towards both our nature and condition. There is value to be had in setting a course and virtue in the effort. Besides we might surprize ourselves and come closer than we might otherwise think. Further, the good is not the enemy of the perfect.

As this applies to questions of practical utility and application to real world problems, political philosophy must include feasibility as a criterion, but this criterion does not reign supreme. Rather, it must sit in concert with other criteria, these being that the theory cannot be unreasonably demanding; it must be clear and consistent, coherent and cogent; must acknowledge, although not be over-determined by, the existence of political will; should have sufficient descriptive predicates that can explain necessary modifications to existing political practices; and should provide intellectual resources to assist in adjudicating hard or demanding cases.

But, the standard criticism of frictionless abstractions is often along the lines of ‘who will bell the cat?’ In other words, ideals lack practicality. Yet, such a criticism neglects that the practical value of theoretical abstractions is that they provide a means to think about the causal connections between individuals and institutions. They are not meant to be a displace judgement of complex political and policy, but their utility to assist in forming judgements thereof.

The above criterion does not discard non-ideal theory, nor do they defer to expediency. Rather such criteria temper the false debate between the two. As a general rule it is important to establish the ideal theory, then tailor it to what can reasonably be

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expected as achievable given the present conditions. This is the kind of practicality expected of moral reasoning.

The stakes in this exercise are not meaningless. Martha Nussbaum is on record as saying that “For any view you put forward, the next question simply must be, ‘What would the world be like if this idea were actually taken up?’”\(^93\) Moreover, anyone disputing the impact of ideal philosophy should consider how much Rawls’ *A Theory of Justice*, has remade the modern political landscape and heralded the rights revolution.\(^94\)

In his Dewey lectures, Rawls remarks that the task of political philosophy

when it presents itself in the public culture of a democratic society, is to articulate and make explicit those shared notions and principles thought to be already latent in common sense; or, as is often the case, if common sense is hesitant and uncertain, and doesn’t know what to think, to propose to it certain conceptions and principles congenial to its most essential convictions and historical traditions.\(^95\)

Elsewhere in the lecture he adds if “there exists no reasonable and workable conception of justice for all” then “this would mean that the practical task of political philosophy is doomed to failure.”\(^96\) Rawls does not say what we would turn to, but it is implied that these efforts are a far cry from a genuine attempt to improve the basic conditions of persons.

Thus, we can see that the practical application of political philosophy is purposeful, relevant, and offering critique of it requires that one does not shy away from positing and assessing normative claims. But it also takes place at a deeper level of society. As Rawls writes

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\text{to justify a Kantian conception within a democratic society is not merely to reason correctly from given premises, or even from shared publically}
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\(^{96}\) *Ibid.* p356
shared and mutually recognised premises. The real task is to discover and formulate the deeper bases of agreement which one hopes are embedded in common sense, or even to originate and fashion starting points for common understanding by expressing in a new form the convictions found in the historical tradition by connecting them with a wide range of people’s considered convictions: those which stand up to critical reflection.\textsuperscript{97}

In doing so, “a public conception of justice,” one that can undertake an ethical evaluation of political practices, should try to reconcile people with one another and with their society.\textsuperscript{98} But, as I will demonstrate throughout this thesis, a public conception of justice by itself is insufficient. What is needed is a confidence bourn through our best impartial epistemological techniques, practical demonstration, and the test of time.\textsuperscript{99}

Contra to my position, Bernard Williams thinks that confidence is fostered by public discourse and the support of institutions. It is not, he thinks, fostered by rationalised kinds of obligations. While this does not give license to dismissing or suppressing rational thought, it neither makes them the supreme good. Instead Williams wishes to foster a civic republicanism revolving around virtues, care, and community. These goals are noble, but Williams needs to balance the reason for the community existence; it is in many respects the reasonable desire to collectively pursue sets of deliberate goals. The supreme goods are plural and heterogeneous as opposed to monist. They include community and reasonability.

In my estimation, Rawls and Williams are correct in saying that justice is not exclusively an epistemological problem, but one cannot deny that there enters a moment where we decide to have a set of values, and that it would be an impoverished imagination that does not want to justify their choices. Moreover, it seems justification is more difficult without the assistance of philosophy. But beyond that, to be certain, to have confidence in these values, we do have to bring in epistemological reasoning.

\textsuperscript{97} Ibid. p306
\textsuperscript{98} Ibid. p306
\textsuperscript{99} Often irreconcilable reasonable disagreements are partially caused by incomplete knowledge and shoddy evidence. Improvements in knowledge can go a long way to resolving or dissolving disagreement.
Buttressing the anti-utilitarian conception of justice described above, Rawls holds that the epistemological aspect of moral thought, while admirable and necessary in many circumstances, is insufficient to grounds claims of justice.\textsuperscript{100} Much like the practice of justice applies rules, rather than making decisions about what the fundamental rules happen to be, epistemological moral inquiry has similar limitations. Claims that a strict epistemological inquiry can yield any fundamental moral truths sufficient to ground fundamental justice simply cannot deliver on that promise.

Instead the “real task” of fundamental justice, as Rawls calls it, is about deciding which initial values are worthwhile. While Rawls wished to maintain a Kantian conception of free and autonomous persons entering into a social agreement, one that has expected longevity, and sought to maintain the conditions of persons as free and autonomous, the difficulty is that nothing independently secures these initial values. They are merely choices, decisions, and selections. Instead what Rawls proposes is “reasonable grounds for reaching agreement rooted in our conception of ourselves.”\textsuperscript{101} The real task of fundamental political justice is to find “conditions for justifying a conception of justice hold only when a basis is established for political reasoning and understanding within a public culture.”\textsuperscript{102} Or in other words this is the public giving and taking of reasons with rhetorically viable others.

Having established this, Rawls continues to argue that

The social role of a conception of justice is to enable all members of a society to make mutually acceptable to one another their shared institutions and basic arrangements, by citing what are publically recognised as sufficient reasons, as identified by that conception.\textsuperscript{103}

Moreover,

\textsuperscript{100} See Rawls (1999) Kantian Constructivism in Moral Theory, \textit{op cit.} p356. In Outline of A Decision Procedure for Ethics, Rawls writes that “we may think of ethics as being more analogous to the study of inductive logic than to any other established inquiry.” Rawls (1999) Outline of A Decision Procedure for Ethics, \textit{op. cit.} p2

\textsuperscript{101} Rawls (1999) Kantian Constructivism in Moral Theory, \textit{op cit.} p306

\textsuperscript{102} \textit{Ibid.} p306

\textsuperscript{103} \textit{Ibid.} p306
whenever a sufficient basis for agreement among citizens is not presently known, or recognised, the task of justifying a conception of justice becomes: how can people settle on a conception of justice, to serve this social role, that is (most) reasonable for them in virtue of how they conceive of their persons and construe the general features of social cooperation among persons so regarded?104

This being said, when asking whether the real task can hold water, the question comes down to whether reasonable political engagement of the kind as outlined above is possible with significant levels of social inequality. In the next chapter I argue that this is unlikely because differential burdens associated with class positions are not fair, nor do they create conditions where persons can be reasonable.

104 Ibid. p305
Chapter 2.

Liberty, Reason and the Dialectics of Liberalism

In the opening pages of *The Subjection of Women*, John Stuart Mill characterised liberalism as committing itself *prima facie* "in favor of freedom."\(^{105}\) Underwriting this freedom is what one might call the necessary fictions of a person’s inherent dignity, inviolability, and inalienable rights.\(^{106}\) This means that we *treat* persons *as if*, to use Rawls’ term, they possess a “reasonable moral psychology.” Alternatively one might say that persons are always already free and equal.\(^{107}\) These intuitions provide Rawls’ first principle of justice: “Each person is to have an equal right to the most extensive total system of equal basic liberty compatible with a similar system for all.”\(^{108}\)

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106 What this means is that these items are non-transferable. Therefore, no government, institution, or organization, not even a legitimate one, has the license to violate them.

107 Rawls’ reasonable moral psychology rests on:

“Besides a capacity for a conception of the good, people have a capacity to acquire conceptions of justice and fairness (which specify fair terms of cooperation) and to act as these conceptions require.”

“when they believe that institutions or social practices are just, or fair (as these conceptions specify), they are ready and willing to do their part in those arrangements provided they have reasonable assurance that others will do their part.”

“if other persons with evident intention strive to do their part in just or fair arrangements, people tend to develop trust and confidence in them.”

“this trust and confidence becomes stronger and more complete as the success of shared cooperative arrangements is sustained over a longer time.”

“As the basic institutions framed to secure our fundamental interests (the basic rights and liberties) are more firmly and willingly recognised.”

See Rawls (1999) *The Ideas of an Overlapping Consensus*, *op. cit.* p250

108 Rawls (1971) *op. cit.* p250
One can practically demonstrate this attribute by respecting another person’s moral power and standing. This involves recognizing that they have a capacity for a sense of justice, a capacity for a conception of the good, autonomy, the freedom of belief and conscience, and are viable rhetorical others; that is, they can give and take reasons.\textsuperscript{109} By this I mean that persons share similar powers of thought and judgement, a capacity to draw inferences, weigh evidence, and balance competing considerations. Recognizing these attributes compels one to acknowledge that persons are allowed to reasonably pursue a complete life of their own choosing irrespective of gender, class, sexual orientation, or any other attribute or identity. Doing so is to live in liberty.

But living in liberty is difficult. This is because, as Rice points out, at the core of liberal thought are a series of tensions. She writes there are challenges “to ensure majority rule and to respect minority rights, to strengthen communities and to liberate individuals, to empower government and to limit that power at the same time.”\textsuperscript{110} Kalyvas and Katznelson describe “a mode of liberal reasoning” that operates “between the abstract and the concrete, the normative and the descriptive, the universal and the particular,” and that seeks to offer “principled political judgment [for] particular situations.”\textsuperscript{111} This mode is attuned to offering substantive institutional proposals that and advance social protections and rights, while seeking to hold powers to account.

There is also a significant tension between the attempt to provide reward structures that celebrate merit and yet also provide a modicum of equality of condition. The latter tension, in particular, is intimately connected to any consideration of how meaningful political engagement in liberal democracies is possible with significant levels of social inequality. My focus in this chapter is primarily on these tensions, with specific reference to the status of the person in the areas of politics, philosophy, and economics.

To begin, it seems important to note how liberalism has been challenged in recent years by a looming ‘conflict of the faculties.’ This is in part prompted by gathering

\textsuperscript{109} Ibid. p505
enthusiasm for the promises of “affect theory.” Typically, affect theory has been used to investigate the bio-political contents of identity, membership criteria, and toleration, all with the attempt to develop an ethics of care and concern based upon empathy as the wholesale endorsement of affective sentiments. The conceptual trend has been to conceive of basic emotions, as one ethicist describes it, as “an emergent suite of motivational states that stem from underlying systems.” Proponents of this turn claim that Spinoza’s interest in the ‘idea of the body’ has been vindicated, as well as wrestling ethics away from the intellectual elites, in that embodiment is better suited to make moral assessments. Such developments, we are promised, will lead to more advances in political theorizing thus recalibrating normative frameworks. As it tends to be presented, this agenda purportedly provides more freedom particularly for socially subordinated groups. At another level, the charge, by inference, is that liberalism trades upon outdated psychology and thus is no longer meaningful or relevant as a political philosophy. Nevertheless I think it prudent to be wary of claims that this recent turn necessitates a revolutionary overhaul of political philosophy.

Still, if the liberal commitment in favor of freedom is to be feasible, it cannot be indifferent to these bodies of literature. In the passages that follow, I explicate and offer a defense of liberalism by appealing to what I describe as a “liberal dialectic.” Consistent with Rawls’ Kantian Constructivism I argue this dialectic lies at the heart of the liberal political tradition. This analysis sets the stage for consideration of the weaknesses of affect theory.


113 It is outside the purview of this dissertation to deal with the more speculative and technical elements of this research and its implication. Nor is it my goal to adjudicate this literature. Persons interested in meta-reviews of the evidence could look towards Daum et al (2009), Barrett et al 2007, and Cacioppo et al’s 2000. Together these studies suggest that there is insufficient evidence to conclude that discrete affects exist. And I must admit that I have a certain sympathy with Elspeth Probyn (2005, 27) who notes that research needs to move beyond “empty statements about embodiment.”
A Liberal Anthropology and Metaphysics

One of the key tensions of liberal thought is the pull between self and other. We can roughly describe this as the attempt to bring about an I-Thou relationship. Distinct from relations between persons and objects, this relationship is an attitude which aims to recognize and respect the essential uniqueness of another self with powers of personhood comparable to one’s own, while acknowledging their partiality and projects.\textsuperscript{114} As Buber writes, “[w]e can give and accept the Thou.” This is because, at least for person-person relationships, “it is a form of speech.”\textsuperscript{115} The implication is that to extend recognition and feel concern for others is to see them as persons like us. But, further, to be able to recognise ourselves in their position; there needs to be some empathy based upon common reference groups.

The dialectics to make the ‘other’ an ‘another’ turns on how we treat them. One method is to use a kind of rhetorical gift. As Mauss showed, gift giving creates and extends social relations where none existed beforehand. Liberalism’s gift is to recognize another as rhetorically viable; that his or her mind has sufficient potential to give and take reasons. It does so by recognising their personhood. This requires the activity of judging and recognizing when, and to what, that title is due. For this reason judgement is required by both interlocutors. This is dialectical insofar that the parameters of liberal engagement reside in the reason for the gift; maintaining freedom requires the presence of others.

Despite the I-Thou relationship appearing in \textit{A Theory of Justice} Rawls was reluctant to put his version of liberalism on metaphysical foundations. This is partly because metaphysical propositions can be problematic for those that do not conform to


\textsuperscript{115} Buber describes the Thou relation an experience that “establishes the world of relation,” and applies not only to persons, but to “our life with nature,” “men,” and “intelligible forms.” The relation is to the item itself, its essence. Buber, M., (2000) \textit{I and Thou}, New York: Scribner Classics
them. Rawls, wary and cautious in the best of the liberal vein, is unwilling to build the scaffolding a hangman might later use. So he sought to downplay metaphysical components, holding that even moral questions can be resolved without wading into metaphysical waters. Instead, to his mind, successful politics necessarily requires that issues of justice remain understood purely in political terms without metaphysical implications.¹¹⁶

Richard Rorty is of a similar persuasion. He notes that one of the core attributes of liberalism is that freedom of consciousness provides a means by which people are able to keep their metaphysical presumptions to themselves should they desire.¹¹⁷ This keeps the public space a place of public reason, not bitter and irresolvable metaphysical confrontation.

Despite my admiration for their desires to avoid conflict, both Rawls’ and Rorty’s attempts to downplay metaphysics are not fully honest. This is because liberalism presumes the potential existence of a particular kind of person; namely, a person willing and able to act in deliberate manner. Certainly this is a metaphysic presumption. By metaphysics, I follow A. W. Moore’s working definition: “Metaphysics is the most general attempt to make sense of things.”¹¹⁸ Granted, metaphysics has weaknesses: One must be doubtful of senses while simultaneously avoiding undue conceptual self-confidence.


¹¹⁸ This definition is as crisp as it is elegant. Moore has in mind an open question at the highest level of generality, agnostic to modal outcomes, which while the endeavour has no guarantee of success does have the possibility of success to understand what is worth living for through knowing why. Moore admits that this definition is deliberately broad to the extent that it would include those who would not presume to involved in metaphysical investigations. It can also be construction as well as destructive, high profitable, or unprofitable, and a successful pursuit need not produce “descriptive declarative sentences.” (p7) Elsewhere he writes “Because of its generality, metaphysics is the one branch of philosophy that is not the philosophy of this or that specific area of human thought or experience.” (p8) Moore, A. W., (2012) The Evolution of Modern Metaphysics, Cambridge: Cambridge University Press
Tensions are also present in the nature of freedom itself. That is to say an individual might determine his or her action in a causally determined world, or a world in which powers constrain them? Liberty itself means little if it is not actually possible to be free. Due to this commitment, much twentieth century philosophy tested whether it is an actual prospect. Generally, Analytics sought to address the question by investigating free will and determinism, while the Continental tradition investigated how various social forces shape the person’s judgement and actions.¹¹⁹

While these two modes of inquiry proceed down different avenues, they have a broad affiliation with Kantian moral theory. That is, the individual must set and obey self-governing rules and their actions must be purposeful, deliberate, and reasoned, even in a causally determined universe. In essence, free subjects give themselves principles of action. Concretely, this amounts to moral principles emanating from the self, consistent, and not arbitrary. To fit within these established parameters Liberalism is tied to a compatibilist conception of free will and exposing undue constraint.¹²⁰

¹¹⁹ John Searle explains it in this fashion: “When it comes to explaining a certain class of human behavior, it seems that we typically have the experience of acting “freely” or “voluntarily” in a sense of these words that makes it impossible to have deterministic explanations.” This phenomenological encounter with the world gives rise to the conscious conviction of free will because as he writes, “I do not sense the antecedent causes of my action in the form of reasons, such as beliefs and desires, as setting causally sufficient conditions for the action.” Moreover, “I sense alternative courses of action open to me.” This is most acute when examining cases of decision making. Here, “I did not sense the reasons for making the decision as causally sufficient to force the decision, and I did not sense the decision itself as causally sufficient to force the action.” Searle (2007) op. cit. p39

¹²⁰ A moral skeptic might suggest that this argument is vulnerable because it presumes that persons are able to generate the rules that they do because if they could not, then they would be otherwise: that is, we generate rules we are able to follow, because if we could not, we would not. To this extent the moral skeptic could claim that this not a moral theory, but simply a convenient coincidence with the added error being the mistaken belief that individuals can spontaneously create rules. For that reason, the skeptic might claim, the notion of self-generating rules is intellectually impoverished.

My reply to the moral sceptic is that they neglect that moral theory is meant to have a kind of a convenience, it just not the kind in which the sceptic is interested. It is convenient insofar that it draws attention to the kinds of actions which require deeper deliberation: It is purposefully selective of which kinds of conduct are ethically charged, and which kinds are not. As to rules, it appears as if the sceptic is too limited in his understanding thereof and neglects that rules vary in type, purpose, content, and scope. Importantly, because rules are self-established, they can be modified. It is not as if once set they harden into concrete. Rules require judgment and selection over suitability and application to a particular task. Hence, rules could quite well be otherwise, even if the person is not.
Regarding its philosophical anthropology, Liberalism is fairly pragmatic in its
appraisal of human nature. Liberalism holds that a person can act well or poorly, justice
is a human virtue, and political structures can be designed to respond to a person’s
desire for freedom and autonomy. Within this anthropology, language plays a
considerable role in conveying reasons for actions. This is a moment of decision making,
but which needs the self. The self as I use it here is not a substantive entity independent
of the body that experiences. Rather, it is simply a short hand designator for the thing
that others come to recognise as an entity capable of conscious and reasonable thought and action, and that has moral powers. This self has no other option, as Searle remarks,
but to “act on the presupposition of freedom.” 121 And, we have no other option but to
presume the self.122

This self is created and maintained by the experience of giving and taking
reasons. As Parfit says “Each person’s existence just involves the existence of a brain
and body, the doing of certain deeds, the thinking of certain thoughts, the occurrence of
certain experiences, and so on.”123 So while experience is relevant to reasoning, by no
means does that fact sanction that it has priority in matters of justice. It must be so, for
while I am able to convey reasons based upon experience, it is impossible to convey
experience itself.

Taken together, Kantian anthropology, and, more specifically, the Kantian
conception of freedom, animate a dispute weighing whether abstract reason or the living
corporeal individual provides the keystone for liberal philosophy. If reason is given
priority, then the individual agent must subordinate his or her will to it. Thus the
uniqueness of the body matters little except in its ability to acknowledge and act out the
good. Critics argue that the disappearance of the body is unrealistic at best and anti-
human at worse.124 Conversely, if the living individual is given priority, then the body is

121 Searle (2007) op. cit. p43
122 Philosophical treatments of the self demonstrate that the lay understanding thereof is but the
illusion of continuity. It is possible then that your future self may be as distant to you as you are
to another person.
124 Here is Paul Khan’s description of this position:
the site at which reason is grasped and desired; herein existing interests and circumstances must be accommodated or discarded within the conception of liberty. The difficulty in this tension is over the precise limits of interests and preferences, and the attempt to balance conflicting wills. In any case, the plausibility of comprehensive rights or goods hinges upon the weight given to either view.

The Aspiration to Reason

Liberals have an affinity for the giving and taking of reasons. This concern exists because liberalism conceives of itself as a kind of expressive rationality that relies upon the command of language. As Stout remarks, “The ethical life of a people is essentially expressive, a matter of making explicit in the form of a claim a kind of commitment that would otherwise remain implicit and obscure.” For this metaphysical dialectics to be meaningful it keeps score on action; and it is also why liberals have spent time seeking to qualify standards for adequate discourse. In this vein, Habermas his discourse ethics, Rawls his reflective equilibrium, Toulmin his good reasons approach, Fishkin his notion of a deliberative democracy, Tilly his grudging consent, Grice his conversational implicatures, and so on. Ultimately, as Stout aptly points out, “this is because: “Empty rhetoric is hardly an adequate basis for political community.”

The exchange of reasons allows persons, even strangers, to impartially hold each other to account. So liberals are committed to the public justification of claims on themselves and on others, all the while being willing to (if grudgingly) consent to the best

...the Kantian subject acts freely when he does what any rational agent should do, which is what any wholly rational agent should do. There is no personality at this point because the will is entirely filled by the universal rule. Subjectivity is always a problem from the moral point of view, for differences must be grounded in something other than reason. Personal difference does not show up in the formal sciences, such as mathematics. If moral action aspires to the universal, it must be similarly approach the uniqueness of the individual with skepticism.

One must push back against those who render impartiality as indifference rather than a substantive effort to engage another person without undue favour. The concern with the self’s interest either to select projects, or as a means to pursue them unhindered does little to secure a common set of values that articulates a genuine and embracing social order. This is often the line of a communitarian critique of liberalism.
reason available. This is the application of reason to the tension between partiality and impartiality. This can take the form of procedural concerns for making claims, and the substance of the claims themselves.

Underwriting these two claims is the ‘separateness of persons’ who are able to give and take reasons. Concern for the ontological status of the person is the bedrock upon which reason is used to assist judgement. For example, against crude utilitarianism which deliberately failed to account for the status of persons, both Rawls and Nozick argued that the separateness of the persons mattered greatly in political decision making. In a slight modification, Sandel pointed out that the ‘separateness of persons’ did not separate person from social commitments, becoming, nor being. In other words, persons were socially encumbered creatures with intersubjective needs. Taylor took Sandel a step further, historicizing a person’s encumberences, to show that the person is an idea. Building upon this tradition Parfit has claimed that while we might argue that idea of the person is central to political philosophy, later inquires may reveal that the person is not a necessarily coherent entity over time, and thus not adequate entity upon which to ground political philosophy. Parfit made this claim in an effort to rehabilitate a utilitarian philosophical position.

These modifications to Rawls are boundary disputes and ways of navigating the obstacles posed by second order problems of personal identity. Controversy over approaches to the self may seem banal, but they raise the question of who is justice for if not for the person? Sandel and Parfit, and to a lesser degree Talyor, argued instead to consider different areas of concern. The perspective they advance uses the fragmentation of value to lobby for distinct and discrete spheres of justice. The difficulty here is not pluralism, but rather boundary bickering as to what item falls under which sphere, and even what happens when items can reasonably be put into multiple spheres.

Parfit best represents the view that rational introspection can give rise to the normativity of reasons themselves. Having analysed notable personal and moral dilemmas from the twentieth century philosophy of action he favours a balancing of the tensions between short and long term good, attitudes to time, and various partial
interests. The best means to strike this balance is a qualified utilitarianism in which the self is subordinated to reason. Here, all or nothing personal identity is downplayed in favour of physical and psychological continuity. Therefore, it is understandable how a person can be rationally irrational, because pluralism opens up the possibility of complex conflicts between values and goals.

However, it seems to me that Rawls’ priority of the person is simpler, subject-centric, easier to justify, and attends to human flourishing. Further, given that total agreement is impossible, Rawls is correct to make allowance for modus vivendi on comprehensive issues, albeit still seeking to construct a pragmatic overlapping consensus so that peaceful social life is feasible. To this extent, Rawls offers a soft version of the rational accord of persons based on an extremely broad metaphysical conception of the person as a reasoning agent.

Rawls certainly leans upon Kant’s conception of the person as a reasoning agent. To support his concept of reasonableness, Rawls introduces an anthropology of ideal judges. One can find the expanded criteria in his essay Outline of a Decision Procedure for Ethics, but for present purposes it is sufficient to say that ideal judges have a set of capabilities and virtues that allow them make decisions in circumstances where moral decision is required. However, given differences in capabilities, Rawls puts more weight on virtues because they can be adopted and cultivated. He is not alone. Whether in Bertrand Russell’s A Liberal Decalogue, or Nussbaum’s writings on the value of the humanities, Liberals seek to cultivate the reasoning mind. Indeed, Rawls calls reasonableness an intellectual virtue of impartiality that is a “habit of the mind.”

Rawls contends that his ideal judges are reasonable and that reasonability replaces the search for moral truth interpreted as fixed by a prior and independent order of objects and relations, whether natural or divine, an order apart and distinct from how we conceive of ourselves.

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126 Rawls (1999) Outline of A Decision Procedure for Ethics, op. cit. p2
Rawls' thought ultimately comes to give considerable weight to reasonableness. This is made most explicit in Rawls’ Dewey lectures on Justice and Kant, where he says that the metric to judge the effectiveness of fundamental justice ought to be reasonable agreement as opposed to moral truth. For instance, he says, that “conditions for justifying a conception of justice hold only when a basis is established for political reasoning and understanding within a public culture.”128 In addition:

The social role of a conception of justice is to enable all members of a society to make mutually acceptable to one another their shared institutions and basic arrangements, by citing what are publically recognised as sufficient reasons, as identified by that conception.129

And:

Thus whenever a sufficient basis for agreement among citizens is not presently known, or recognised, the task of justifying a conception of justice becomes: how can people settle on a conception of justice, to serve this social role, that is (most) reasonable for them in virtue of how they conceive of their persons and construe the general features of social co-operation among persons so regarded?130

Still, little of this gets around the problems of inter-subjective agreement. If one were to avoid this, it seems that reasons and beliefs must be justified and true. This returns reason to an epistemological problem.

Following that logic, reasonableness is presented as a disposition where a person can engage in a fair means of co-operation by giving due consideration to the issue on merit. A basic list is that a) reasonableness is different from rationality, b) presupposes and subordinates the rational c) is an element of social co-operation, while acknowledging personal projects, d) is an intellectual virtue, e) and explicates considered judgements.

This is not to say that reasonable political conceptions will always lead to the same conclusions. Rather, they are a practical means to determine which items can

128 Ibid. p306
129 Ibid. p306
130 Ibid. p306
count for legitimate debate. Thus the outcome is not necessarily true or correct, but rather legitimate according to methods of reasonable criteria and process.

In A Theory of Justice Rawls uses reasonableness as the means to describe how a person might act in the original position, and the substantive justice that might be the resultant outcome of such interaction. For this reason, Rawls describes his position as “constructive”; not in the social-constructivist sense, but that rather, it is “helpful to settle disputes.” 131 (Rawls was clear that this could not be extended to moral reconciliation of value conflicts.)

The search for fundamental justice does not preclude disagreement. However, Rawls qualifies that this disagreement must be based on a valid differential assessment of the “burden of reasons.” 132 Indeed, it would be unreasonable not to recognise irreconcilable reasonable disagreements. 133 These reasons must not be inconsistent with being reasonable in the first place. 134 (See Table 1)

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132 Table Two offers some of Rawls’ reasons for why disagreement will occur.
133 Rawls (1999) The Domain of the Political and Overlapping Consensus, op. cit. p478
134 This removes prejudice and bias, irrationality and stupidity, and allegiances to different visions of the world which admit no other information from the table. Ideology is off the table.
a) The evidence—empirical and scientific—may be conflicting, complex, incomplete and therefore hard to assess and evaluate.

b) Persons could agree about what kind of considerations are relevant, but could disagree about their weight, hence coming to arrive at different judgements.

c) To some extent all concepts are vague and subject to hard cases; this indeterminacy means that we must rely upon on judgement and interpretation (and judgement about interpretation) within some range (not itself shapely specifiable). Again reasonable persons might arrive at different judgements.

d) To some unknown extent the contingent lived experience shapes the way we assess evidence and weigh moral and political values. People's lived experiences are disparate enough for their judgements to differ when presented with complex cases.

e) Often there are different kinds of normative considerations of different force on both sides of the question, and it is difficult to make an overall assessment.

f) Any system of social institutions can admit only a limited range of values, some selection must be made from the full range of moral and political values that might be realised. This is because any system of institutions has, as it were, but a limited social space. In being forced to select among cherished values, we face great difficulties in setting priorities, and other hard decisions that may seem to have no clear answer.\(^\text{135}\)

**Table 1.** Drawn and modified from Rawls’ reasons for disagreement.

From Table 1, I want to emphasise the incomplete nature of evidence, the different weighting of evidence in lieu of vague and incomplete evidence, and that it is unknown what percentage of the total picture a person might have. Here fallibilism is a reasonable habit of mind, with goals that are tentative, and open to modification. But while judgement can be mistaken or false, I take for granted that there are things that can be true, and that humans have the ability to directly and indirectly perceive and detect that which is true. To those that might object, we can point out that there is a difference between what is true, and what passes for being true and that one can infer things from these true propositions. In other words, that there is a chain of legitimate inferences that present evidence of a certain kind for particular actions and circumstances.

Reasonable disagreement does not strip the other person of moral powers, nor moral standing. We should still respect and treat others with autonomy and having realised their moral powers, such that they are “free and equal citizens in a democratic regime, and who have an enduring desire to be fully cooperating members of society over a complete life.” In short, we are engaging with people whom we presume we could persuade if our reasoning was sufficient, and by who’s reason we are prepared to be moved in return.

Certainly, there are others who have been more explicit about this. Dewey for instance wrote: “Democracy is neither a form of government nor a social expediency, but a metaphysic of the relation of man and his experience in nature.” The meaning of liberalism rests not on its processes, but on its objectives within the world, as it comes to conceive of that world.

John Stuart Mill has a similar view. In On Liberty he describes liberalism as a philosophical method.

Complete liberty of contradicting and disproving our opinion, is the very condition which justified us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.

Rational accord is central to this exercise:

As mankind improves, the number of doctrines which are no longer disputed or doubted will be constantly on the increase: and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested.

For Rawls these are “a capacity for a sense of justice, and a capacity for a conception of the good.” He continues “We assume such persons share a common human reason, similar powers of thought and judgement, a capacity to draw inferences and to weigh evidence and to balance competing considerations, and the like.” Rawls (1971) op. cit. Chapter 18, section III


What Mill is expressing is that dialogical exchanges can help produce the truth. This is his reason why free expression ought to be protected, for this is a method to find and establish truths, while assessing what people believe.

Rendered in contemporary terms, we might say that the liberal inquiry rests when ‘there is nothing else to think on the matter.’ This limits the pit of endless discussion. The reasons are good, extensive, and cogent. If an error were found in an explanation or a description, then there would be more to think and say. By until errors are found, sometimes there is just nothing else to think, nothing else to say on a matter.  

Critics describe this attention to discourse as well-meaning but erroneous. The error is the belief that it is always a possibility to include, or turn an other into another, or to use Buber’s terms, to establish an I-Thou relationship. There is also the presumption that continual engagement opens the door to understanding. Yet, sometimes, more talk just leads to more disagreement. Liberalism has sometimes been criticised as a political system in which talk and speech is fetishized (conversation, debate, the press and the parliament) to a point where there is a widespread failure to understand the dynamics of social or non-linguistic conflict.

Still, this criticism misses that the liberal tradition, having developed during European state consolidation, deeply understands conflicts of all sorts, and so goes to great lengths to avoid them. This does not mean that liberalism does not have limits or intolerances of its own. However, for many of its proponents, liberalism does not actively seek enemies or political disagreement. Doing so potentially creates conditions where altercations are seen as a virtue, not a danger. In this respect, liberalism takes a measured stance: it is not reasonable to expect all people to agree, and perhaps absolute agreement is unwise; however it is unreasonable to expect reasonable people to reasonably accept the unreasonable.

139 There is some comfort in reading Mill and Dewey. They do not really consider the susceptibility of persons to false convictions, erroneous beliefs, motivated reasoning, the sway of ideology, nor the power of media enterprises dedicated to persuasion. That these conditions of the world did not enter their works shows not willful blindness, but rather bona fide in a person’s ability to impartially assess the merits of their belief. We now know better.
However, other contemporary philosophers emphasize a need to take a more historical view. For example, Charles Taylor has demonstrated how our current concept of the self is linked in with modernity, in plainer terms that the idea of the person itself has a history. For this reason Taylor is reluctant to define the person in strict naturalistic terms, or at least in terms that have little room for a moral quotient. Much like C. B. Macpherson references Locke as developing and propagating the fallacy of possessive individualism, so Taylor thinks that errors in personal identity reach as far back as Locke, where the self is reduced to an atomized individual, to create methodological individualism.

Methodological individualism has roots in the British utilitarianism of Mill, Bentham and Spencer, with modern advocates including Karl Popper and liberal economists. With the move to a morality-based understanding of liberalism and liberty, methodological individualism is generally supported by appealing to the human individual as the primary philosophical entity. This is because human beings are the entities that make selections, have free will and agency. We can add to this list the matter that the individual is the site of biological life and death. However, one must not neglect that much of the western moral philosophical tradition was developed under conditions where there was no political representation. It was therefore, from Socrates’ death onwards, a response to the prevailing political conditions. The good life was individuated and meant to console against the prevailing powers that be, how to live under conditions where one was politically constrained. Taking these factors into account, it not surprising that the liberal state and liberal morality have concerns with individual conduct.

There have been important criticisms of this position, most notably by British Idealists and U.S. reformers such as Hobhouse and Dewey. Indeed, it was only when historical conditions changed such that political representation was possible for wider numbers of people that liberal arguments opposing methodological individual begun to gain traction. The good life need no longer be confined to giving advice and seeking better courses of action under constrained circumstances. In this vein, beginning in the 1980s, a broad communitarian movement sought to develop a liberal morality that was wider than simply the individual. It was, in many respects, a repeat of a very old question
of social order and value conflict—how do we live with others. But, the communitarian turn was built on an emphasis on the wider moral obligations owed to others.

Taylor argues that the difficulty with this view lies in how such a conceptual demarcation of the person is alienated from what it is actually like to be a person with ideas and desires. He does not valorise traditional or classical accounts of the person, but does think that excessive rationalism and excessive empiricism do not seem to correspond with ordinary life, and social life in which persons participate. In contemporary social life, recognition is an articulation that another is a meaningful ethical agent. Taylor, in a neo-Traditionalist form, thinks that the person ought to develop an adequate spiritual and immanent metaphysics which attunes the inward-looking self to God.

The question of a personal metaphysical relation to God, while perhaps personally relevant, I think should not be elevated to political theology, or the presumption that the socio-political order is best arranged by these following principles. In this sense, Rawls’ essay Justice as Fairness: Political not Metaphysical responds to the critique of liberalism by modern communitarians who challenge liberalism’s foundational philosophical anthropology. Rawls had wanted to build his theory broad enough to include all reasonable people, regardless of differences in their metaphysical points of view. Communitarians were not satisfied because Rawls methodological individualism rests on contested assumptions about the boundaries of the self and the place of reason.

As for myself, I think that the reasonable self should be the foundation of our political thoughts. This endorsement affirms ordinary life, giving due attention to self-interpretation of the communal acts of language and dialogue. This supposes that individuals live together and talk together. To this extent, I advocate an historically situated understanding of the self, as that self comes to understand and respond to social setting and communities. Moreover, this is to recognise that individuals are subject to the pull of class, ethics, biology, and culture—although this does not presuppose that any one of these pulls over-determines the others. To this extent, the social self is a dynamic of struggle and imagination.
This struggle points towards Charles Taylor’s conception of social imaginaries. For Taylor, a social imaginary sits adjacent to social theory. Whereas social theory is a creation of intellectual elites, and aspires to populate the foundational concepts for social scientific inquiry, a social imaginary is the self-understanding of human practices as set within a wider body of people, a narrative for self-understanding. Because a population wider than elites creates the social imaginary, so it is purportedly more open to participation, and does not foreclose the possibility of contribution. Moreover, the contents of this imaginary are conveyed via myth, legend, narrative—basically traditional practices—that come to make sense of how a society works while simultaneously promoting self-understanding.

For Taylor, three items of social understanding are important: The economy; the public sphere; and democratic self-rule. In each of these areas, Liberalism’s social imagination is sustained by its dialectical tradition over ontology and telos. To this extent, we need to appreciate that power influences each of these dialectics, and that ontology and telos are subject to rhetorical capture. Therefore, a liberal analysis must attend to whether rhetoric matches with substantive action, as well as attending to a person’s prospects, and their ability to act. Herein, we must be cautious not to gloss over consideration of various kinds of struggle.

Often discussions of Liberal decision theory focus on reasonableness, the role of public reason and the virtue of practical reason. However, it seems that Liberals cannot write about the value of reason without objections from skeptical quarters seeking to erode reason’s credibility. It is common to hear theorists claim that liberals too are colored by their cultural space, and produce work that simply reinforces those structural conditions, discourses, or prevailing ideological beliefs. Skeptics charge that liberal reason is a product of historical chance, and conveniently reflects a particular set of group interests. Descriptions, interpretations, and explanations of liberal reason are not only biased, but are implicated in harm because they provide a convenient, albeit unintentional, smokescreen to the powers that be. In short, that what liberals claims to be reason, demonstrates their obliviousness to the workings of the world. In this fashion skeptics take exception with the reasonability and rational presumptions of the liberal
tradition. However, notwithstanding this modification, to ask the question directly: what is the problem with the aspiration to reason?

Some of these skeptics draw upon the theories of Marx, Freud, and Nietzsche, whom Paul Ricoeur called the Masters of Suspicion, and who attribute human behaviour to interests, instincts and the pursuit of power.\textsuperscript{140} There are more recent developments within cultural studies, constructivist theses, and cognitive accounts that attribute human behaviour to discourses, practices and expectations, and neural interaction, and by virtue of their research show the limits of liberalism. Common to all of these traditions of inquiry is that they subordinate reason to deeper more fundamental forces than a person’s ability to reflect rationally and reasonably on their circumstances.\textsuperscript{141}

Each of the traditions described above can partly account for the erosion of confidence in the epistemic value of reason. Still, even taken together I do not think they sink it. Undoubtedly when looking at explanations for human action liberals tend to emphasis rationality, knowing all too well that things can be unreasonable and irrational. But, it does not follow that because some persons can be unreasonable and irrational one must discard reason and rationality. The common concern between liberals and their theoretical antagonists is the distinction between which reasons actually move people’s actions, and which reasons people invoke or offer to explain their actions. To make this more meaningful, one can add the attribute of power to mix; for if value and beliefs try to skew a person’s behaviour in one way or another, there must ultimately be the choice for the free willed person to choose to act in one way or another; that is, they must be free to act otherwise.

To complicate things further there is always the possibility that we have the values we do have because of some contingent history. Indeed, as Rawls has noted,


\textsuperscript{141} Due to brevity and focus I cannot detail the deep nuances of each and every variant of a particular tradition of inquiry and their objections to liberalism. Nor will I be able to refute or soften some of these objections. So while I think Liberalism is able to credibly stand tall, that demonstration will have to be addressed at a later date.
We make many of our most important judgements subject to conditions which render it extremely unlikely that conscientious and fully reasonable persons, even after free discussion, can exercise their powers of reason so that all arrive at the same conclusion.  

So one should also not pretend that the exchange of reasons will put an end to ranking or categorizing values, nor that mere talk will bring a magic wand to the solving or alleviation of social problems. Still, until these social problems are solved, the exchange of reasons keeps these issues at the forefront of our minds, commands our attention, and keeps us accountable.

The fact that in contemporary liberal democracies political discourse rarely lives up to its own ideals is no reason to discard them. For if constantly living up to such ideals is required, then no political order can be considered liberal. Political orders that aspire to such ideals, and habitually hold each other’s reasoning to account, rely on the burden of reasons, and the excellence of reasons. The giving, taking and demanding of reasons is a process of scorekeeping and keeping each other responsible, particularly governors. Liberal democracies demand of the state, an adequate justification for decisions and actions, all to ensure that governing actions are modest, and that undue influence is not present. We use reasons to call each other to account and to guide fair dealings. This giving and taking of reasons is the kernel of the Liberal tradition. This is not just ceremonial, but an important process by which to check and recall representatives should they not be able to provide sufficiently justified reasons for their decisions. Not only have liberal philosophers taken to methods of discussion, they have applied that process to their central object of inquiry, the metaphysics of persons; that is, the freedom of a person.

This metaphysics has some empirical validation. Consider that Charles Tilly shows how liberal democracy gives citizens a significant influence over rulers’ performance. In the essay Grudging Consent he notes how undemocratic regimes do not need to worry about which sort of government subjects would prefer or what sorts of actions they would tolerate. However, in contemporary democratic regimes, this is a

142 Rawls (1999) The Domain of the Political and Overlapping Consensus, op. cit. p478
constant worry because democratization has meant that citizen-subjects have both the voice and means to convey displeasure and limits. This gives citizens considerable “influence over rulers’ performance.”

Tilly continues to note that the quality of the voice of citizen-subjects can be analysed along four attributes, breadth, equality, binding and protection. Democratization moves “toward a broader range of popular voices; toward greater equality among these voices; toward the increased binding of rulers’ actions by popular voice; and toward greater protection of popular voice from arbitrary action by rulers and their agents.”

To conclude this section, having worked through the discussion of persons as reasoners, there is a prima facie case that Liberalism cannot help but be a public philosophy. By public philosophy, I do not mean a philosophy whose exclusive subject matter concerns itself with the normative creation of publics and their sustenance, nor do I mean an “expressive rationality.” Rather, I mean that argumentative participation and contribution turns not on credentials but purely on the quality and excellence of reasons irrespective of the advocate. In this sense, in its ideal formulation, liberalism is open to participation, and to this extent it is a practice that anyone can join should they desire. It is true, of course, as C.W. Mills argues in the case of the United States, that the ideal formulation of liberal democracy is typically little more than a “formal outline than an actuality.” But, the fact that liberal democracies occasionally fail to live up to their ideals does not deter from the importance of setting such standards. The danger lies in confusing these ideals with the reality of people’s everyday lives.

144 Ibid
How Far Does Reason Apply?

It is appropriate here to turn to the question of the comprehensiveness of liberalism. At stake is whether second order investigations can assist first order determinations. Philosophical Liberalism holds that this is possible and preferable, going as far as to include evidence-based policy under its umbrella. Political Liberalism, by contrast, holds that if there are risks of implementing existing second order consensus, then liberalism should concern itself solely with procedural politics. Rawls alternated between each of these positions over the course of his career. The stake in evaluating these positions is the extent to which liberal theory applies to all, to whom does it apply, a stance on its good, and the degree to which resolutions in second order concerns should modify the practice of liberal politics, as well as whether liberalism is justified for all political communities. To put it more bluntly, given existing moral inquiries, to what extent are others compelled to adopt liberalism as a political system, and to what extent are others entitled to intervene to impose it?

While sympathetic to the version of liberal moral universalism expounded by writers such as Thomas Pogge and Martha Nussbaum, my own view leans towards a more limited political version, similar to that which Rawls presents in *Political Liberalism*. I am persuaded by Rawls’ insistence that liberalism is antithetical to paternalism, and I am perturbed by the idea of philosopher-as-legislator, because no single agent, agency, or institution should be in a position to stipulate and specify the good. More importantly, I accept that in a plural society coercion cannot be warranted by appeal to comprehensive moral or religious systems of belief. As discussed above,

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148 This view stems from Rawls’ acute acknowledgement of religious conviction and his belief that reasonable pluralism is possible in heterogeneous populations. We can see these themes for instance when he write about justice is a democratic society:

An immediate consequence of taking our inquiry as focused on the apparent conflict between freedom and equality in a democratic society is that we are not trying to find a conception of justice suitable to all societies regardless of their particular social or historical circumstances. [Rather] We want to settle a fundamental disagreement over the just form of basic institutions within a democratic society under modern conditions. (emphasis added)

Elsewhere he wrote that

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Rawls’ early work maintained that there can be good reasons why people might disagree (hence *modus vivendi*.) Similarly, there will be inevitable disagreements over conflicts of value and conviction, even under favourable social and political conditions, and among reasonable people. But, as Rawls points out, we must put aside fundamental and cherished convictions to work out the principles of justice—ideas that play a central role in justice as fairness and political liberalism.

Instead Rawls offers a framework through which existing comprehensive doctrines can engage in public reasoning. His view is thus an attempt to manage the problem of toleration in liberal societies by being pragmatic. He would accommodate non-liberals in decision making, with the qualification that they too, like all other liberals, should explicate their reasons and be prepared to have their reasons publically evaluated. Still, this commendable intention presumes that liberal political theory can design a system of justice amenable to those who hold antagonistic comprehensive doctrines, and that they can be persuaded to temporally set aside their doctrines to deal with more mundane political affairs. I doubt that this persuasion can move conviction.

A further criticism of this narrow conception of liberalism is that it pretends that it can be neutral and mitigate widespread value conflict. The contortions required to [missing word?] liberalism to a minimal set of principles such that they are able to accommodate value conflict, and suggesting that these principles might generate a consensus amongst reasonable citizen’s, neglects to consider that consensus itself can be tyrannical. Further, it avoids liberalism’s moral quotient by avoiding the role of moral argumentation in politics. As Michael Sandel points out, the principles of basic rights and

We may also suppose that everyone recognises what I have called the historical and social conditions of modern democratic societies: (i) the fact of pluralism and (ii) the fact of its permanence, as well as (iii) the fact that this pluralism can be overcome only by the oppressive use of state power (which presupposes a control of the state no group possesses). These conditions constitute a common predicament. But also seen as a part of this common predicament is (iv) the fact of moderate scarcity and (v) the fact of there being numerous possibilities of gains from well-organized social cooperation, if only cooperation can be established on fair terms. All these conditions and assumptions characterize the circumstances of political justice.

These quotes illustrate some of the qualifiers Rawls adopts for his theory of justice; that his model is historically situated with the modern causal imagination, dealing with current predicaments and so on. Rawls (1999) Kantian Constructivism in Moral Theory, The Idea of an Overlapping Consensus, op. cit. pp305-306, 445
liberties cannot be neutral for they cut to substantive moral controversies.\textsuperscript{149} Consider the case of abortion. Nagel maintains liberal neutrality on this matter:

Liberals propose to ‘bracket,’ or set aside, the question whether abortion is morally wrong, and to defend the legal right to abortion on the ground that women’s liberty in a personal matter of this kind may not be overruled simply because of the religious convictions of the majority.\textsuperscript{150}

Sandel, however, holds that “liberals cannot defend the right to abortion without implicitly denying that the fetus is a person.”\textsuperscript{151} Affirming one principle undercuts the other: the woman’s right to choose morally outweighs the fetus’ right to life. For this reason, in liberal states, there is no solid demarcation between private and public morality. Private choices are assessed against public norms. Suppose the case was inverted, that the fetus’s right to life morally outweighed a woman’s right to choose, then the private choice of abortion would be considered infanticide.\textsuperscript{152} Wherever one stands on the issue, it is impossible to wish such conflict away.

In my view, Sandel is correct. Liberalism is not neutral. It has commitments. Shying away from these commitments deflates liberalism’s force. While liberalism is first and foremost a political theory, it rests upon particular metaphysical and epistemological commitments. Liberalism, to borrow a phrase from Sandel, is ‘encumbered.’ It should not pretend to be otherwise.

It is for this reason that Public Reason Liberals incorporate the notion of encumberness. They argue that comprehensiveness does not respect the subjectivity of freely reasoning autonomous moral-titled persons to judge what is good. They further propose that moral conduct needs to be publically justified. In this sense, they are similar to Political Liberals, where goods are not predetermined or fixed, but rather indeterminate. While moral freedom is possible under these conditions, it is mostly in the

\textsuperscript{151} Sandel (2006) op. cit.
\textsuperscript{152} Ibid.
form of freely choosing the goods and ends through public deliberation. This position
maintains the priority of the right over the good.

By contrast Philosophical Liberals respond that submission to a particular
conception of the good is limited by the ability to push this conception of the good onto
others without their consent. But, at the same time, they would hold that if one were
playing by the rules of reason, then the value of this conception of the good would be
adopted freely. Here one of the reasons for the state is that it should promote the well-
being of its citizens and their virtues; it provides opportunities for citizens to cultivate
virtues. This requires that the state policy is linked to judgements about the value of
different ways of life, or minimally allows the opportunity for certain ways of life to
flourish. In liberal philosophy autonomy is a key constituent of a life well lived.

Philosophical Liberals have always given priority to the right over the good. Still it
is well established within the liberal tradition that freedom of conscience about the
reasons a person chooses to enter into the political arena must be protected and
respected. This means that persons are allowed to use their deepest commitments as
reasons. This toleration and civility must, however, be matched by the willingness to
submit to reasonable exchange and the possibility of criticism. The result may be
political gridlock at times, for one party may be unwilling to concede the point, or be
unwilling to withdraw, such that they can reassess the reasoning they will use in public
and fundamental exchanges. It might be possible to find a temporary pragmatic
workaround, but one must not pretend that this fix conclusively deals with the problem. It
just suspends it. Sooner or later conflicts of values and reasons will reappear. This is not
to say that there are never limits to reasonable accommodation, only that discussions
over the terms of such limiting conditions are themselves perennially contested within
the liberal tradition and form an important part of its history.

This seemingly relativist position need not disagree with Habermas’ proposition
that “the law of a concrete legal community must, if it is to be legitimate, at least be
compatible with moral standards that claim universal validity beyond the legal
community."\(^{153}\) Nor need it conflict with Rawls' spirit of justice as an ideal target. Rather, while acknowledging that liberalism does have compelling values, advancing these values via absolutism is contrary to the priority to respect discretionary judgement of the person who has liberty of consciousness. Moreover, acknowledging radical contingency requires a dampening of conviction of correctness that is often associated with undue moral hubris in claiming what is good. Thus, in uncertain circumstances, abstinence is preferable to the intolerable level of controversy, force and instability that would likely come from specifying the good.\(^{154}\) Another consideration for better or worse, is that in the era of the modern nation state, borders and governance matter.\(^{155}\)

To recap, a liberal moral action turns on the desirability of a reasonable course of action that can, but will not always be met. Admittedly, this aspiration will not always be met, but it is an aspiration that can be met. A person can value liberty and freedom and still consent to a particular conception of the well-reasoned good. What is questionable is the possibility and desirability of pushing this conception of the good onto others without their due consent. The notion of consent and volition, then, is an important aspect of liberalism. Contrary to Rousseau, one cannot force another to be free.

### The Unintended Consequences of Affect Theory

Recognizing that emotive states are formed more quickly than conscious thought, there exists a rough consensus that people’s intuitions are influenced by their emotions. So, the argument runs, someone who is ‘hot under the collar’ will have his or her reasoning and judgement shaped by their emotive state. It follows that emotional states and the circumstances in which people make decisions matter for they affect people’s abilities to make good judgements, raising the question whether Rawls’ category of reasonableness is affectivity. As this applies to the affective turn, there is the

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\(^{154}\) Rawls (1993) *op. cit.* pp37, 311

\(^{155}\) Given that this thesis addresses a state-cantered domestic liberalism, I shall remain silent on the liberal state’s preferred mode of interaction with international non-liberal groups as it is outside the scope of the thesis.
latent promise that it can account in some cases for how the material environment triggers specific kinds of intensities of awareness which elude description, representation, or intentional formation. Herein, affects are said to be independent of context and meaning.

Granted there are different kinds of affective theory which elude easy and concise definition. Notwithstanding those differences and focus, in this section I confine myself to the variety particularly influenced by the work of Gilles Deleuze. In this understanding of affect, proponents tend to offer a set of poetic descriptions. Take for instance the way Brian Massumi distinguishes between emotion and affect. For him “an emotion is a subjective content, the sociolinguistic fixing of the quality of an experience which is from that point onwards defined as personal,” whereas “affect is intensity,” which is “irreducibly bodily and automatic:”156 They follow “different logics and pertain to different orders.”157 He continues describing affect as “not about empathy or emotive identification for that matter.”158 Shouse adds to this description, clarifying that “affect is not a personal feeling. Feelings are personal and biographical, emotions are social. And affects are pre-personal,”159 Or as Clough defines it, affect has “autonomy from conscious perception and language.”160

A prominent critic, Ruth Ley, provides a good global description of affect and its apparent implications.

The claim is that we human beings are corporeal creatures imbued with subliminal affective intensities and resonances that so decisively influence or condition our political and other beliefs that we ignore those affective intensities and resonances at our peril—not only because doing so leads us to underestimate the political harm that the deliberate manipulation of our affective lives can do but also because we will

157 Massumi (2002) op. cit p27
158 Massumi (2002) op. cit p40
otherwise miss the potential for ethical creativity and transformation our embodied being can help bring about.\textsuperscript{161}

Put concisely, humans can experience the world by means that are beyond and independent of signification and meaning. Following Massumi, affects are anti-representational and anti-intentional. He claims people exist “spontaneously and simultaneously in two orders of reality,” but one in which affects precede thought.

Like Ley, I am less interested in the genealogies of affect theory and more interested in substantive claims, and the social production of these claims. Firstly, affect theory’s most important belief is that post-structuralism had insufficiently decentered of self and was thus unable to appraise the kinds of human experiences that did not, or could not, rise to the level of signification and communication. This dissatisfaction prompted a re-evaluation of the unduly presumed privilege of language, thought, and other representational orders over the body and its lived materiality and filtered out basic precognitive modes of awareness. Rather, like Clough writes, one should address the “subject’s discontinuity with itself, a discontinuity of the subject’s conscious experience with the non-intentionality of emotion and affect.”\textsuperscript{162} As indicated by Massumi above, affects belong to a different ontological order. Involved herein is, as Margaret Wetherell explains “a more extensive ontological and epistemological upheaval, marking a moment of paradigm change” offering an alternative to critical theory and discursive analysis to understand institutions and identities, economics and politics.\textsuperscript{163}

Another frustration is a presumption that Marxism’s attention to economics and class struggle eclipses bodies more generally. Affect theorists tend to be generally hostile to ideology, partly because corporeal affective reactions prime the subject to certain beliefs, not the ideological contents. Research then should not attend to “institutions,” Seigworth proclaims, but rather to “moments of love, poetry…hate, desire,” for they create “entire new demands on the social order.” Similarly, in a treatment of

American politics, Massumi claims that Reagan’s electoral success was attributable to affect, as Reagan was “brainless.” Notwithstanding one’s judgements regarding Reagan, it is poor tactics to regard your political opponent’s victory as an unintentional happenstance and to neglect the near thirty year political project to put Reagan in that position. Such a view induces unwarranted complacency and is indicative of a general indifference to the role of ideas and beliefs in politics; attributes that are keystones to a person’s intentional beliefs and affiliation. But separating and subordinating ideas to affects deflates ideological disagreement substituting it instead for inattention to the collusive elements of power. Sidelining questions of class struggle and deliberative politics misses how ideology shapes the body.

A third contributing factor, as Margaret Wetherell explains, was the rise of a certain kind of empirical behavioural psychology and neuroscience—generally the Tomkins paradigm—in which the study of emotive states as it comes to attend to “the distinctive perturbations they cause in the body and mind” being differentiated from feelings or “more elaborated subjective experiences.”164 This general orientation purportedly expands the scope of social scientific investigations, such that “it leads to a focus on embodiment, to attempts to understand how people are moved” and “how do social formations grab people.”165 William Connolly criticizes the “insufficiency of what might be called intellectualist and deliberationist models of thinking,”166 these being, amongst others, ‘neo-Kantians’ who overemphasise the role of reason in politics and ethics to the detriment and exclusion of the body’s involvement in forming political judgements and behaviours. This is roughly the outlook shared by Massumi, who drawing up selected cognitive experimental results, writes that “thought lags behind itself. It can never catch up with its own beginnings.”167

In her critique of Deleuzian affect theory, Ruth Ley painstakingly attends to the assumptions guiding the selection and use of evidence to ground biological structural

166 Connolly, W. E., (2002) Neuropolitics: Thinking, Culture, Speed, Minneapolis, pp. 10,
universalism.\textsuperscript{168} Ley demonstrates how through selective appeal to scientific authority, Masumi has embellished these outcomes, contorting them to questionable conclusions unwarranted by the experimental results. Indeed the cases he relies upon are not considered decisive in their fields and are ripped from their disciplinary debates. Further, his motivated reasoning clouds his judgement to the point that he is not open to the possibility of vagueness, ambiguity, or poor representation in the studies he relies upon. This is set beside basic questions regarding whether some persons are more prone to affects than others, or whether experiences of affective intensity vary by degree and kind, or are socially shaped. Subsequently, through bracketing these things off from investigation, Massumi has overemphasized sensation and made some gross conceptual-philosophical errors, mistakes when thinking about politics and ethics.

Motivating the dismissal of reasoning and intention is the combination of two beliefs. The first is that science, especially neurological science, has access to reality; and second, the distrust of perceiver-dependent events. But this is little more than bringing the hermeneutic hammer down on lived experience, holding that people are not best positioned to relate to an observer their reasons for actions. Instead, one has the judgement of the theorist. In this sense, the theory is anti-democratic.

In rendering an individualist politics devoid of class concerns or disagreements about belief, it relegates contention and confrontation to a politics of accepting different unintentional tastes and preferences. While this could be considered emancipatory for minority groups, I do not think it actually is, for it renders democratic governance as aesthetic rather than normative. The trouble here is if there is no intention, there is no responsibility. The following kind of plea is thus possible:

If I intentionally disavowal my racist attitudes, but I perpetual racism in non-intentional micro-aggressions, then it beyond my control to and thus not incumbent on me to change them.

\textsuperscript{168} Ley (2011) \textit{op cit}
The many permutations of this plea add up to a social blank cheque. It seems then that affect is about privileged persons’ unwillingness to be subjected to reasonable critique or a desire to want to provide or take account of their actions.

These intellectual developments cannot be disconnected from the wider institutional context where humanities departments are competing for status and funds through various appeals to scientism. This disciplinary shoring is related to larger ideological maneuvers in the late 20th and early 21st century, wherein, the social construction of science was repurposed by the agents of the 1% invested in dirty energy to undermine scientific findings regarding climate change. Why this matters is because of the idea that the political left must invest in empiricism to drive radical policy change. But this use of biological sciences is peculiar given the extent to which 20th century critical sociologists were cautious of biologically reductive based argumentative explanations of action and practice. This reversal has happened, partially in my view, because of the apparent pressures to support humanistic inquiry by appeals to science; in this case by appeals to early neuroscientific studies. So, in seeking the trappings of science, affect theorists have become disinclined to engage in class analysis. When proponents do respond to such critiques, their explanations tend to be weak and evasive. William Connolly’s reply to Ruth Ley reasserts his belief that subjects are neuromediated and affectively primed. He avoids discussing Ley’s argument that affect theorists have overgeneralised and misinterpreted findings from poorly designed and replicated biological experiments. To me, the theory is similar to a noncognitivism theory of moral action, and as such, I am not persuaded by it.

I do not mean to deny that bodily and cognitive processes can occur below the threshold of awareness. My argument is only that branches of affect theory have created a false sharp divide between the mind and the body that is unsustainable. To give some background, John Searle regards the mind body problem as resting upon the faulty presumption that these terms reflect “mutually exclusive categories of reality.” I agree, holding that it is a quasi-secularised version of the original ‘conflict of the faculties’

dispute which Kant wrote about.\textsuperscript{170} It exists because there is a reluctance to see that “our conscious states qua subjective, private, qualitative etc. cannot be ordinary physical, biological features of our brain.”\textsuperscript{171} Searle writes that if we drop the mutually exclusive criteria then a solution is possible. To his mind,

All of our mental states are caused by neurobiological processes in the brain, and they are themselves realized in the brain as its higher level or system features. So, for example, if you have a pain, your pain is caused by sequences of neuron firings, and the actual realization of the pain experience is in the brain.\textsuperscript{172}

But, this introduces a problem insofar that it requires one to specify how conscious states come into being. This attends not only to questions of making sense of perceptions and experience, but also the extent to which a person’s consciousness is evoked by material circumstances independent to the body. This defence requires us to defend the person as a perceiving agent; the nature of the object of perception; the role of mental contents; and the causal and significatory relation between perceptions and objects.

There are additional elements of intentionally to consider, particularly with regard to linguistic description and the constitution of social reality. What I refer to at this point is the understanding of belief and the widely held view that luck is a belief or an assessment of action, both at an ontological and epistemic level. If it is an assessment it does raises questions about the intention of the belief and action. Consider both the intention to conduct an action, say go for a walk, but also to a “form of directness or aboutness.” John Searle has argued that “Beliefs, desires, hopes, fears, loves, hates and perceptions are all cases of intentional phenomena.” And while it does seem difficult to suggest that ordinary cell structures can be about anything, “how they could refer beyond themselves,” it does seem a cop out to suggest that everything is affected by the

\textsuperscript{170} Cf Kant, conflict of the faculties'
\textsuperscript{171} Searle (2007) op. cit. p38
\textsuperscript{172} Ibid. p39-40
structure of the environment, because it does raise the question of what indeed is the first affective quality. The problem is how do we refer to things and actions? 173

Neo-Aristotelian ethicists have noted how feeling effects reasoning. Thus, in commenting on Aristotle’s investigations of emotion where emotions are contingent and indeterminate, they are nevertheless virtues and part of a person’s character, Nussbaum notes while Aristotle cannot be grouped with the “mindless surges of affect” he nevertheless emphasizes that “emotions have a rich cognitive structure” which have causal links, many of which are “outside of the agent, items that he or she does not fully control.” 174 Nussbaum presents emotions as falling under the auspices of virtue:

Emotions, in Aristotle’s view, are not always correct, any more than beliefs or actions are always correct. They need to be educated, and brought into harmony with a correct view of the good human life. But, so educated, they are not just essential as forces motivating to virtuous action, they are also, as I have suggested, recognitions of truth and value. 175

Further,

Emotions are not blind animal forces, but intelligent and discriminately parts of the personality, closely related to the beliefs of a certain sort, and therefore responsive to cognitive modification. 176

Hence, certain emotive responses can be cultivated; reasoning can subordinate emotional responses. Emotions do not cripple the aspiration to reason. Lastly, McIntyre notes the practice of any tradition is emotive:

It is no accident that I speak of ways of “thinking, talking and feeling.” The notion of a tradition that I am invoking is not simply that of a particular language or theory, it is a way of living. As such, it is not something discovered by simple armchair reflection. 177

173 Ibid. p38
175 Ibid, p96
176 Ibid, p78
To the extent that liberalism has attended to affective practices, it has done so roughly from these vantages.

To understand the actions of a person one ought to recognise the influence of the proximate social order, the institutional rubric, and cultural practices that make actions intelligible and meaningful. Herein persons exchange, encounter, and elaborate over the reasons for their actions. This gives a person a narrative of their progression, and brings them into touch with persons that preceded them, while also showing how a person or a set of social actions, is constrained.

**Capability and Class**

Concerned with the insufficient attention to actual human bodies in orthodox liberalism, Amartya Sen contributed to the development of what is now known as the Capability-Functioning Thesis. This argument attends more to individual capacities—this being their positive freedom to “actually enjoy to choose the lives they have reason to value”—than ideal distributions. These capacities refer to a person’s ability to reach a certain state of being. This might take the form of the ability to be in good health, ability to work, or even the ability to live in accordance with certain virtues. If there is a deficiency in this regard, then there should be requisite intervention.

There is much to admire in Sen’s argument. First, it can be measured by using generally agreed upon external standards, for example the capability to source adequate nutrition, shelter, healthcare and education. These tangible goods are not just about the reproduction of the self, but also about reproducing the self well. A related benefit is that these standards provide a means to demonstrate the extent to which might be mistaken they are living well: For example a person may think he or she has adequate nutrition even if this is untrue.. The same point holds for whether a person has the capability to be autonomous and can pursue his or her self-directed projects. Indirect measures for autonomy may be whether a person’s potential is fulfilled, or the absence of justified

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coercion. In this respect, Sen has a great deal of concern for dominance, oppression, unfair discrimination.

Second, there are grounds to make the case for a sufficiency of wellness which everyone is entitled to by virtue of their being human. It is on this basis that redistribution is justified. Third, the argument is pluralist in that it does not specify which ends are to be pursued, but only the goods that might enable someone to pursue these ends. It thus accommodates the responsibility requirement. For example, if a person has the capability to achieve a certain functioning, be they negligent in advancing or practicing their capability, then they are fully responsible for their circumstances. Lastly, the possibility of interesting philosophical work is still to be done by incorporating Sen’s arguments with those of Parfit’s view of sufficiency; insofar that one might specify what capabilities are sufficient, and which public policies are necessary to help produce conditions under which the specified capabilities can mature. Indeed, it will be interesting to see at what point such specifications would rub up against resource constraints.

On the whole, Sen’s argument is a more practical account of equality than one that focuses on welfare or resources. This is one reason why the argument has found institutional favour and been incorporated into the policy discourse of international development agencies. One reason, unsurprisingly, is that these ideas provide more tangible directives for policy-makers and government officials.

But the devil is in the details: As Sen does not populate a closed list of capabilities for human functioning he opens the door for anything that can be claimed as such. In a related vein, the excessive pluralism does not specify what equality means. If equality is a comparative measure, how can excessive pluralism and relativist functionings compare to one another. Attempts to address the first, merely indicate the difficulty of the second problem.179 In this respect, the as used by institutions, it is a cloak to avoid taking the necessary actions to neither address inequalities nor ameliorate

poverty. A ‘lack of basic functioning’ becomes a reason not to act. Further, insuring a population’s ‘basic functioning’ becomes another means to ensuring that they can reproduce their labour and become adequate exploited workers. In short, this approach inadvertently stalls equality and egalitarian aspirations.

There are further difficulties with a capability when assessing the provision of welfare services. As measured by happiness, wellbeing does not correlate with income or social position. As this type of welfare is not tied to income, beyond a certain degree of sufficiency, there is no return on investment in terms of happiness to be gained from a more equitable distribution of resources. Advocates of this position argue that better metrics of human flourishing should not be measured by growth rates, but rather by happiness. This is the ‘money isn’t everything’ approach to developing welfare within populations. The problem with this approach is that it plays into the hands of those unwilling to distribute their wealth, and it plays into the hands of those seeking to ensure global production zones which squeeze labour costs. As Thomas Nagel writes “Maybe money isn’t everything. But then again maybe happiness isn’t everything.” As he points out, “

When I was growing up, if you wanted to see a movie, you had to go to the local movie theater, and you saw what was playing that week. Now I can see almost any movie from the entire history of cinema whenever I feel like it. Am I any happier as a result? I doubt it, but that seems irrelevant to the value of this vast expansion of possibility.

Pointedly, “happiness is not the only human good.”

So much as it applies to individuals, liberty can often only be realised by collectives. In contemporary political arrangements this means that citizens come together to reason about the issues that may divide or unite them, all the while knowing that they will consent, however temporarily and grudging, to the position that is the most reasonable. Persons come together to sustain a moral tradition by giving and taking reasons about political topics.

This is not to say that there cannot be disagreements, or impasses; for any system of logical postulates will be necessarily incomplete. These are the hard cases of deliberating, and I will come to address them further in the thesis. Given that we can logically show that liberalism will always be incomplete it would be illogical on that basis alone to claim license to discard it. Rejection of liberalism requires it to show that in its ideal form, it creates and perpetuates human suffering.

Uniting these approaches is an affirmation of the person as a perceiver. While it is possible to stipulate how human cognition codes cultural practice, due to the sheer plurality, variety, and diversity of perception, investigating ways of perception seems to prima facie hinge on social factors.

There is also a vital distinction between the process of affected perception, and decision-making. For example, Searle notes:

In typical cases of deliberating and acting, there is, in short, a gap, or a series of gaps, between the causes of each stage in the processes of deliberating, deciding and acting, and the subsequent stages. If we probe more deeply we can see that the gap can be divided into different sorts of segments. There is a gap between the reasons for the decision and the making of the decision. There is a gap between the decision and the onset of the action, and for any extended action, such as when I am trying to learn German or to swim the English Channel, there is a gap between the onset of the action and its continuation to completion. In this respect, voluntary actions are quite different from perceptions. There is indeed a voluntaristic element in perception. I can, for example, choose to see the ambiguous figure either as a duck or a rabbit, but for the most part my perceptual experiences are causally fixed.

He attributes this gap to the necessary presumption of volition:

At each stage, the conscious states are not experienced as sufficient to compel the next conscious state. There is thus only one continuous experience of the gap, but we can divide it into three different sorts of manifestations, as I did above. The gap is between one conscious state and the next, not between conscious states and bodily movements or between physical stimuli and conscious states.
Thus he argues that “even those of us who think [free will] is an illusion find that we cannot in practice act on the presupposition that it is an illusion.” And “we have to act on the presupposition of freedom” therefore “we cannot think away our free will.”

It would certainly be an error to think that reasons are not provided by desires. In that sense, it is an error to marginalise the body, and its vivid encumberedness. Hence it is appropriate to amend liberalism so that it seeks to promote an ideal set of material circumstances where persons can best reason about their state of affairs. By best I minimally mean the cognitive security that allows freedom of consciousness, and the liberty for reflection. This requires, in practical terms, that a person’s decision making is not unduly hurried nor made in haste and that they are given time for due consideration of the issue, and their response. This modification, I think, keeps the epistemic value of liberalism’s decision theory consistent and compatible with elements of Liberal reason which is built upon perceptual experiences, interpreted and explained as caused by items in the world. Liberals should feel free and autonomous.

As it applies to liberalism, what is at stake is the actual reasoning and decision-making process of encumbered individuals as they come to navigate political arrangements. It is not so much passion or reason but rather reasonable precaution, reasonable demands, reasonable feelings. In this respect, it is not latent rationalism or latent sentimentalism, but rather the dialectal co-constitution of the one by the other. Practically, when liberals call upon principles or norms, they are not just invoking reasons, but are expressing an attachment to (re)interpretations of core principles.

The warning, then, is not to be rationally or sentimentally reductive, nor to disembend social phenomena from their dynamic totality. While one must not believe that impartial appreciation of totality will be the panacea to the problem of liberal order and the resolution of value conflict, it does go some ways to help assess the distribution of various kinds of goods. But this does not negate that genuine value conflicts exist, or that reasonable people can and do make different decisions on the best way of life. For the objectivist, this is because each individual has unique capacities for which they must develop as they see fit; for the pluralist it is because values are too numerous to be
simply reconciled; and for the subjectivist because preferences and tastes exist and differ from person to person.

As this relates to liberalism, the aforementioned ethical inheritance welcomes amending items when we know what is true. Reasoning together requires that we give due acknowledgement to the possibility of something being true while recognizing the ways that perceptions of truth are often influenced by the vagaries of power and culture. Meaningful political deliberation always requires an eye on what can provisionally be known to be true. This is because words and ideas have consequence for people. Ideologues make no such concession.

Liberal Apologetics and the State

Proto-liberals such as Montesquieu and Proto-contractualists such as Hobbes were ultimately concerned with the search for the good life and tapped civic virtue as the condition for liberty. They do, however, acknowledge that when these virtues failed, there needed to be an entity to keep the peace. This is why they are not against all authority, but rather the exercise of undue authority. At the same time, Montesquieu and Hobbes, even more famously, are also well aware that the nature of the state, given its preoccupation for power and wealth, would likely disturb the peace.

Liberals typically regard the state with suspicion. First, their suspicion is justified by their direct experience with the violence of state building exercises and coerced extraction in the history of western societies. Second, they are wary of the state’s claim to the monopoly of legitimate violence. Rawls is not unusual in claiming: “political power is always coercive power backed up by the government’s use of sanctions, for government alone has the authority to use force in upholding its laws.” For this reason, the exercise of power must be sufficiently justified to be legitimate. Third, due to their emphasis on reason, Liberals have been wary of state attempts to co-opt traditional iconography to legitimize its authority. This caution partially explains why proto-liberals

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invested heavily in the project of modernity for it was thought to break the shackles of traditional experience and the inertia of an unjust past as it came to be used by the state. In this respect, early Liberals were revolutionaries unwilling to give the past any unearned due; they sought to overthrow the world of privilege and nobility, and the institutions maintaining these items.

Given the state’s omnipresence, liberals have had to develop their thoughts and advance their project under this historical condition. To be clear, it is not that liberals were in a position to control the state so much as they sought better governance and limited deployments of state force. However, in some cases, better governance has necessitated efforts to capture the state so as to limit the undue deployment of force. Accordingly, liberals’ measure of political development is the extent to which there are democratic mechanisms that constraint arbitrary and undue state action. So while legitimate states use less coercion nevertheless the capacity and inclination does not mean that the state is neutral with respect to the use and deployment of force.

To advance the liberal project, classical liberalism used the market and private property as a means to somewhat buffer expropriation and interference from the arbitrary social inequality of the Ancien Regime’s political centralization. There are, however, some qualifications least one suspect that classical liberalism’s sole concern was the unqualified endorsement of markets. First, respect for property rights requires the subordination of all to the rule of all, such that political entities will treat your property in accordance with the prevailing law. Contracts and the enforcement of contracts are cornerstones to this conception. This is about the growing bourgeois class seeking security in a political order that did not necessarily have their interests in mind. This is therefore a form of negative liberty, protection from coercion. Liberty rests on the respect of property rights, and non-interference, the securement of asset bases.

Given that European governments in the seventeenth through the nineteenth centuries were not orthodox democratic regimes as we might understand them, once

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183 I take the State to be a phenomenon with a central nature that exhibits superficial variations that respond to local conditions. Weber in *Politics as a Vocation* wrote that “the state cannot be defined in terms of its ends.” p4
placed in these historical circumstances one has sympathies for this strand of liberal arguments. As a testament to this, one can turn to Hayek when he writes that

There can be no freedom of press if the instruments of printing are under government control, no freedom of assembly if the needed rooms are so controlled, no freedom of movement if the means of transport are a government monopoly.¹⁸⁴

In this view, the market is not the embodiment of liberty, but rather a means to protect liberty. Still, even Hayek is clear that the market is not liberty: “Freedom and wealth are both good things [but] they remain different.”¹⁸⁵ He was clear that capitalism was not designed to guarantee prosperity for all, but is useful to check the powers that impose themselves on freedom. Amongst ‘market for liberty’ solutions, there is a divide between those who argue that markets intrinsically produce liberty, and those that argue that the public management of commerce is useful for liberty.

Most classical liberals grant that the inequality and social misery produced by markets ought to be fixed. But there is disagreement with corrective interventions of redistribution regarding priority and sufficiency. However, there is evidence that market related inequality and misery is unlikely to be ameliorated. There are several accounts offered for why this is the general tendency. Corruption, the capture of state politics, fractionalism, and the unequal nature of capitalism, are highlights from a long list. Yet, none of these are exclusive to securing gains. Erich Fromm has expressed this neatly:

Battles for freedom were fought by the oppressed, those who wanted new liberties, against those who had privileges to defend. Whilst a class was fighting for its own liberation from domination, it believed itself to be fighting for human freedom as such and thus was able to appeal to an ideal, to the longing for freedom rooted in all who are oppressed.

Historical records tend to show that after waves of expanded rights, elites became wary of the pace of change, and so stalled and retarded the expansion of rights.\textsuperscript{186} Fromm was acutely aware that circumstances change once liberation has been achieved:

In the long and virtually continuous battle for freedom, however, classes that were fighting against oppression at one stage sided with the enemies of freedom when victory was won and new privileges were to be defended.

Fromm warns that the outcome of contention can be cooption through concession. A selective ahistorical reading of classical liberalism might miss that this approach is a strategic method to advance liberty, under particular historical circumstances, but also neglects how selectively successful this struggle has been.\textsuperscript{187}

From the 1930s onwards, political philosophers and economists acknowledged that markets require intervention to repair them and to subordinate them to the public interest in liberty. This development was known as New Liberalism. In this line, Keynes produced the emblematic synthesis of liberalism and social democracy. Key developments here include the Great Depression as the culmination of the Gilded Age and the rise of an expanded franchise and democratic government.

With regard to an expanded franchise there developed a belief that a capable and accountable government could secure liberty. No longer the worry of oppression and coercion, and aware that there is no intimate connection between personal liberal and private property a faith developed that democratic government could secure liberty through economic planning and policy.\textsuperscript{188}

Where once Hayek could chide social-liberals for not adequately taking into account how freedom depends upon a decentralised market economy, social-liberals

\textsuperscript{186} Tilly (2009) op. cit.
\textsuperscript{187} With regard to his interest convergence thesis, Derrick Bell maintains that “whites will promote racial advances for blacks only when they also promote white self-interest.”
\textsuperscript{188} See Dewey, J., (1929) Characters and Events: Popular essays in social and political philosophy, New York, Henry Holt
proposed that the means of production should be radically decentralised such that power blocs in the market and in the state cannot isolate persons.

New Liberalism was not radically collectivist. But neither was it radically individualistic. The irony, however, is that the success of these interventions created circumstances where people forgot the difficulties of life without them. As Firmin DeBrabander writes,

It’s easy for some to speak fondly of a world without government: we can’t fully imagine or recall what it’s like. We can’t really appreciate the horrors Upton Sinclair witnessed in the Chicago slaughterhouses before regulation, or the burden of living without Social Security and Medicare to look forward to. Thus, we can entertain nostalgia for a time when everyone pulled his own weight, bore his own risk, and was the master of his destiny. That time was a myth. But the notion of self-reliance is also a fallacy.\(^{189}\)

Liberals do not claim that the market is a superior mode of governance. Rather, they are well aware that the private sector is inherently rent-seeking. For this reason the ultimate liberal nightmare is fascism, which is a corporatist state where a cooperative alliance between the state and business extracts rents. Often in this arrangement there is no power bloc that can be appealed to too intervene on behalf of persons to limit rentierism. While persons might claim rights to moral autonomy, and thus seek to head off intervention, moral appeals hardly move the state. This gets to the heart of the problem: Contemporary liberals wish that the state serves not only commerce and defence, but also the promotion of virtue. But the state is not interested in virtue for virtue’s sake.

This makes the notion of the liberal pluralist conception of the state as a fair umpire mediating between contending interest groups sociologically untenable. As much as one wishes otherwise, unfortunately, politics is less about the absolute securing of human flourishing, and more about ensuring that power does not undermine human flourishing. It is the attempt to find the appropriate balance of political power such that

the individual can secure an environment for flourishing, while ensuring that political power cannot unnecessarily disrupt, or determine, each individual’s pursuit thereof.

So, it is fair to say that liberalism carries the whiff of a distrust of authority and a suspicion of undue deference. Given this caution, liberals consider only a few models of government viable or suitable for their project. While it is theoretically possible for a liberal state to exist without a democratic regime of governance, liberals have tended to favor democratic regimes where representatives decide upon the rule of law.

Tilly thinks this distrust is ultimately a good thing, even going so far as to describe it as a “necessary condition of democracy.” “Contingent consent entails, in principle,” he explains,

an unreadiness to offer rulers, however they were elected, blank checks to do as they please with society’s resources. It implies the threat that if they do not perform in accordance with citizens’ expressed collective will, citizens might not only turn them out of office but also withdraw compliance from such risky government-run activities as military service, jury duty and tax collection.\(^\text{191}\)

Contingent consent implies two things. The first, in practice, is the responsibility of protecting the political community which ensures liberty rests with the citizen, and in doing so, draws the person into a tradition of protecting the conditions for liberty. That itself brings them into protecting a living moral tradition. The second is that the liberals seek to maintain agency in spite of the existence of the state, as well as, the ability to ‘toss the buggers out.’ “For the government to be truly legitimate,” Rice writes, “it had to be blessed by the consent of the governed.”\(^\text{192}\)

Due to the capacity and authority of the state, liberals have tended to give institutional provisions to the governed, while maintaining that they constitute the sovereign. These citizen-subjects grant themselves institutional provisions and cash in

\(^{190}\) Some have argued that the liberal project does not require a democratic regime of governance. See Graham, G., (2002) The Case Against the Democratic State, Thorverton: Imprint Academic.

\(^{191}\) Tilly (2009) op. cit.

\(^{192}\) See Rice, (2005) op. cit.
values for material consequence. Because the cumbersome nature of administration makes direct governance difficult, elected officials are required. While there are important discussions to be had whether representatives are to convey the sentiments of the persons they were elected to represent, or whether they are expected to use their best judgement, generally, liberals understand that the representative’s role is not to advise the rulers nor serve at their behest. Rather, the representative is meant to solicit reasons for executive conduct such that courses of actions are justified, or failing that test, cease to continue. The significance of this should not be underestimated, for the discursive practice gives a symbolic showing that governments serve at the bequest of the people. Moreover, citizen-subjects accept the responsibility for their political community, and position themselves as guardians for their liberty--this is their condition for the arrangement, this is why they need to ensure that no single person or group captures the state.

In this model it is in everyone’s interest to ensure that State based impediments to liberty are justified, qualified, and modest, for there is no guarantee that liberty, privileges and titles cannot be revoked. This is to say that there are principled limits on the state. Regulation and state based intervention are legitimate insofar that they meet these strict criteria. If there is doubt, the benefit falls in favor of freedom. This applies across the board to all institutions and authorities, forces and laws passim.\textsuperscript{193}

Liberals hold that persons are well-aware that their self-interested pursuits can corrupt society. But liberals also hold that persons can be persuaded by rational arguments to overcome their partiality and respond to some issues that affect the common good in an impartial manner. Should the appeal to impartially fail to galvanize people to act in the common good, there is a secondary line of argument that appeals directly to self-interest. Here the self-interested person is held to be sufficiently rational, self-aware, and well aware that the sole pursuit of their narrow interest can corrode and

\textsuperscript{193} When described at the level of designing political institutions, this principle produces the characteristics of a modern liberal democracy: Constitutionalism; separation of powers; due process and judicial review; genuine electoral contests to ensure that political officers are accountable; a doctrine of rights; a free press; checks and balances; periodic institutional accountability; the scrutiny of office and officeholders; open political offices; as well as elections to discipline the partiality of officeholders.
impede the ability to secure their own liberty. Therefore self-interested persons allegedly understand the need for institutions to limit their own self-interest. This motivates the need for basic rules and structure for government. Either way the role of government, as well as its basic functions, is a given in the liberal tradition. The question is but of details and the manner in which those details are be derived.

Further to the above point, liberals are realists to the extent that despite best efforts, they know they will never be able neutralize the influence of interests, corruption, and efforts to capture the state. Conversely they are fervently opposed to seeking the kinds of total inventions what would guarantee neutralization of these problems. The lesser of two evils is to try check undue influence and capture, while using periodic reform of institutions to shake out creeping undue influence. Imperfect self-correction is preferred to total control of institutional life. For that, liberalism requires a climate of ongoing reform involving ideal principles to set institutional reforms against.

Operationalized as a theory of politics, liberalism is open to refinement as an applied effort to manage the problem of value pluralism and mitigate the violence that can stem from it. What I mean is that Liberalism aims to create a social order wherein people with different interests and beliefs can peacefully co-exist, thereby avoiding civil strife and tyranny, barbarism and oppression. Accordingly, the liberal tradition of inquiry comprises a collection of normative statements used to advance liberty. Contemporary efforts to secure this value are generally expressed by beliefs relating to the inviolability of every human being, a commitment to inherent dignity, the priority of the right over the good, the rule of law, treating like cases alike, civil and political rights, and to a certain extent workplace protection.

Liberalism has a repository of substantive norms and principles, but everyday liberal politics is often concerned with matching and applying content to circumstance. While skeptics have dismissed this process as merely administration, devoid of political

194 Rawls uses the OP to discern the principle of justices for the basic structure of society, TOJ, 10. For Bruce Ackerman, the decisive moment is that of “constitutional politics” or “higher lawmaking,” which is distinguished from the business-as-usual of “normal politics.” Ackerman. B., (1993) We the People: Foundations, Cambridge: Harvard University Press
content, I disagree. Granted these discussions appear apolitical but are in fact deeply political because there can be no unilateral philosophical understanding; the sheer polysemy of meaning ensures that no final vocabularies are possible, no decisions are fundamental. Put in other words, much about liberalism is abstract. This is not to say that it has no value, but given liberalism’s caution, there is a kind of gradualism, and testing of ideas. Practically, actions are only taken when reasons are sufficiently compelling. Therefore one cannot make the error of thinking that political discussions in the liberal tradition will present themselves in easily identifiable ways.

While useful at times, simply cataloguing liberalism’s family squabbling between ‘the three kinds of liberalism’ (an analysis which crops up far too often in liberal folklore) fails to acknowledge the strategic and tactical adaption to particular political climates. Despite apparent differences, stresses, and gradations, the variations of liberalism are nothing but local adoptions to advance liberty using what resources are available whether they be markets, the state, communities, or something else. So my end is different. I try to identify the necessary conceptual keystones that give rise to local variations.

From negative accounts of liberty, I take Isaiah Berlin’s principle that “[one] lack[s] political liberty or freedom only if you are prevented from attaining a goal by other human beings.” This draws attention to the opportunity for the absence of undue interferences and unjustified coercion. From positive accounts of liberty I take the removal of unjustified compulsion action and inaction alike. Here there is a striving for the ability of a person to be rational, autonomous, and self-directed in his or her

195 Classical Liberalism, New Liberalism, Communitarianism. Communitarians can be grouped under liberalism insofar that they emphasize many similar traits, but place a relatively higher weight on the common good and the role of communities in sustaining persons. Their variation of justice seeks grounding in a tradition of solidarity and community, with political considerations being open to public contributions; further they take different stances of the meaning of rights, equality, and constitutions.


197 “Being free is merely a matter of what we can do,” Berlin writes “what options are open to us, regardless of whether or not we exercise such options.” Gaus, G., (1996) *Justificatory Liberalism: An essay on epistemology and political theory*, New York: Oxford University Press

198 Otherwise also referred to as the inability to effectively act
selection of projects, actions, and ends. Compulsory actions or inactions, whether by slavery, appetite, or effective barriers, hinder a person’s ability to select and realize his or her own ends. In this sense, positive liberty must fulfill the ability ‘to act otherwise’ requirement. This conception of liberty has roots in Kant, but also draws from John Stuart Mill’s *On Liberty*. Lastly, I take from Civic-Republican Liberty “not having to live in servitude to another” and “not being subject to the arbitrary power of another.” Proponents of this view are attentive to unjustified and arbitrary domination.

Let us now distil some items from these conceptions and practices of liberty. First there is an often noted difference between liberty and license. Whereas licence is the provision that affords us to make decisions and act upon them as provided by the powers that be, liberty is the genuine autonomy to act within reasonable limits. Liberty affords the person dignity of choice and self-determination in his or her selection of projects, actions, and ends. That these ends could be otherwise is unimportant: What is important is that the people have the ability to select different ends should they so desire. This turns on the removal of unjustified and unreasonable compulsion. By compulsion, I mean, the inability to effectively act otherwise.

Another point is that both compulsory action, and inaction, whether by slavery, appetite, or effective barriers, hinder a person’s ability to select and realize their own ends. In this sense, positive liberty must fulfill the ability to act otherwise requirement.

Third, liberty differs from moral responsibility in that one can still be morally responsible even if you could not have done otherwise. The slave is still responsible for his actions even if he is not free. In this sense, ‘the ability to act otherwise’ is a more precise requirement than the ‘could have done otherwise requirement’ for it draws our attention to genuine prospects for autonomy.

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199 Positive Liberty is prevailing species of liberalism, as exemplified by the work of Benn’s *A Theory of Freedom*, Dworkin’s *The Theory and Practice of Autonomy*, and Raz’s *The Morality of Freedom*. Positive liberty differs from moral responsibility in that one can still be morally responsible even if you could not have done otherwise, inter alia Frankfaut cases.

Lastly, there is value in viewing these as a practice whereby one item cannot be decoupled or explained without reference to the whole. What I mean is that each conceptual attribute connects through each other and in doing so maintains the whole. So seeking to disentangle them for itemised deconstructive analysis would be an error because this cannot see how these attributes are mutually referring and reinforcing. Described another way, we might say that the whole is greater than the sum of its parts.

Throughout this chapter I have discussed liberalism as the practice of reasoning with rhetorically viable others assessing the legitimacy of actions undertaken by individuals and institutions. This reasoning is not conducted in a vacuum, nor ultimately without some relation to the social totality. This is why deliberate actions matters. In the next chapter I start to address this via an argument regarding the value and distribution of goods and I start to sketch how the quality of prospect principle can be accommodated within Rawls’ Kantian constructivism so as to guide actions.\footnote{Limited Kantianism is a consistent theme in Rawls intellectual arc. Joshua Cohen and Thomas Nagel writes that from his earliest work, Rawls maintained a philosophical conception that “strongly resembles the Kantian ideal that we should regard all persons as ends in themselves, and the totality of persons, human and divine, as realms of ends” This stand develops in Rawls mature work into an “avowedly Kantian conception of morality based on certain relations among persons, rather than on the relations of action to an end, even an end common to all persons” and “the right is not what maximizes the good, but what manifests an equal respect for all persons as separate individuals.” Rawls, J., (2009) \textit{A Brief Inquiry into the Meaning of Sin and Faith}, Cambridge: Harvard University Press, p11.}
Chapter 3.

Rawls, Williams, and Political Justice

To speak of liberalism, liberty and equality necessarily requires consideration of the issue of justice and this brings me back to Rawls. Like many other political philosophers of his time, Rawls attended to the entangled problems of war, social coherence, political stability, and justice in the postwar period. Generally, one can classify Rawls’ early work, as exemplified in *A Theory of Justice*, as a particular type of post-war liberal contact theory, albeit Kantian, not of the classic utilitarian stripe. This orientation has seen Rawls compared to Habermas. But, whereas Habermas dealt with the ethics of communicative action and proposed constitutionalism as a means to address conflict by establishing checks on the abuse of power, Rawls, on the contrary, quite correctly points out that these are not enough to secure justice. Justice is more than ideal procedural execution.

Rawls writes that “fundamental political justice” concerns two kinds, “constitutional essentials and matters of basic justice.” He explains this distinction as follows:

Constitutional essentials concern questions about what political rights and liberties, say, may reasonably be included in a written constitution, when assuming the constitution may be interpreted by a supreme court, or some similar body. Matters of basic justice relate to the basic structure of

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202 A selection of fellow members include but are not limited to Leo Straus, Max Horkheimer and Theodor Adorno, Herbert Marcuse, Jurgen Habermas, Friedrich Hayek, and Hannah Arendt. As one can see these writers cut across philosophical traditions.

society and so would concern questions of basic economic and social justice and other things not covered by a constitution.\textsuperscript{204}

In this passage one can see how Rawls considers justice to reside more profoundly in the ideals around which a society is organized.

Following his turn away from religion after World War II,\textsuperscript{205} Rawls attended to the outlines of ethical decision procedures and rules.\textsuperscript{206} Initially his focus detailed the practice of judgement, specifically how judges should make good judgements. His conclusion was that what characterises a good judgment is that the decision comes before the rule. Rawls calls this the burden of reasons. This means, simply that good judges weigh reasons for actions as opposed to applying rules out of hand.

Through this work Rawls realised the limitations of a procedural approach. His primary objection was that the procedural approach obfuscates the key distinction between a justification of a practice, and the justification of an action.\textsuperscript{207} This distinction is important because it leads to vastly different conceptions of authority, and thus in turn has implications for various appeals to what is just. In part it is related to the letter and spirit of the law, and volition and compulsion.\textsuperscript{208}

Briefly, a practice view has judges decide through applying a rule to particular cases; engaging in a practice is to adjudicate actions by following the appropriate rules. If one were to follow this logic, Rawls writes, “it doesn’t make sense for a person to raise the question whether or not a rule or a practice correctly applies to his case.” He continues, “If someone were to raise such a question, he would simply show that he didn’t understand the situation in which he was acting.”\textsuperscript{209} As an illustration of this point, consider a cricket match. The batsman hitting the ball over the boundary is awarded six

\textsuperscript{204} Ibid. p575
\textsuperscript{208} Here the letter refers to legislation, while the spirit refers to justice.
runs to add to his score. If the bowler objected, and insisted that the runs should be reduced because it would be fairer to the match at hand, we might laugh if we were strictly applying the rules, and consider his remark as jest. We would say that he does not understand the situation, and thus does not understand how the rules apply. This judgement leaves no space to consider whether cricket might indeed be fairer if this particular shot was worth fewer runs, as the bowler claims.

These examples seek to demonstrate how a practice, or procedural, account of justice is impoverished, for it leaves no space to evaluate and justify the action in and of itself. In other words, as it relates to questions of basic justice, a rule-based approach cannot support an inquiry into the justification of an action; as such an inquiry would fall outside its mandate. For the purposes of determining basic justice, then, a rule-based approach is inadequate. It is therefore not suited to address problems of basic civil liberties, political obligation, economic disparities, or the like.

To the best of my knowledge Rawls stops short of supporting this position with a discussion of volition and compulsion. However, I think such a discussion is directly relevant and lends itself well to Rawls’s philosophy. Aligning a justification of a practice with legislation and compulsion, and the justification of an action with justice and volition would support the notion that a free and autonomous person entering into acceptable social agreements. It is in this sense that volition is basic to fundamental justice.

To explicate this we can consider some Shakespearean narrative tropes. In Shakespearean dramas, the plot often turns on the competition between the letter and the spirit of the law. For example, in The Merchant of Venice Shylock demands to know why he should not enforce his contract with Antonio given that he has the right and Antonio recognises that right. Portia appeals to mercy when pleading with Shylock, invoking the spirit of the law, or justice.

210 A by-product of this argument shows how rule-utilitarianism is not suitable for determining basic justice. This is in a period when utilitarianism began to come under sustained attack, Cf Smart, J.J.C. and Williams, B. (1973) Utilitarianism, For and Against, Cambridge: Cambridge University Press

211 This could be an oversight on my part in reading Rawls’s work.
The quality of mercy is not strain’d,
It droppeth as the gentle rain from heaven
Upon the place beneath. It is twice blest:
It blesseth him that gives and him that takes

Mercy, as an element of justice, cannot be “strain’d” because it draws its power from volition and acceptance, “It blesseth him that gives and him that takes.” Like “gentle rain from heaven,” it is pure because it is “twice blest.” Law, on the other hand, draws its power from the enforcement of order external to the parties involved. It is not of heaven, but of Earth. The letter of the law, the justification of the law resides in the right, whereas the spirit of the law the justification of the action, resides in a conception of the good.  

Recall that Rawls’s discussion of a desirable system of justice rests on a person being i) equally reasonable and ii) impartial. While Rawls drew upon his early work in decision theory to develop (i), he drew upon Bernard Williams for (ii). Given that Rawls’ work provoked much of the egalitarian turn in liberal theory, it is worth attending to the reasons for this turn. This requires us to attend to Bernard Williams.

**Williams’s Moral Foundations of Equality**

Williams’ sought to prove that persons are moral equivalents, and then to derive criteria that would promote more equitable conditions for persons. Presently the first goal is uncontested, but the degree to which Williams accomplished the second is still debatable. Although most contemporary political philosophers have developed more supple and conditional models of equality, most tend to incorporate some version of the following three features that Williams specified: a) need-distribution as means to secure

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212 This pairing of the spirit of the law with a conception of the good need not bind one to originalism. Incidentally, Shylock is not moved by this appeal. Presently it is unfortunately too common a theme that philosophical argumentation is unlikely to move, part, and bring clarity to public issues. Nagel is despondent on this issue, writing that “moral judgement and moral theory certainly apply to public questions, but they are notably ineffective.” He continues “when powerful interests are involved it is very difficult to change anything by argument.”
welfare, b) equality of opportunity, and c) matching the reason for distributing an item with its primary purpose of production. The following section presents Williams' argument in its strongest form. Doing so allows us to assess whether confidence in it is warranted. In his Lecture on Ethics, Wittgenstein remarks “if a man could write a book on Ethics which really was a book on Ethics, this book would, with an explosion, destroy all the other books in the world.” This is because, in Wittgenstein’s view, ethical writing in the 20th century was too often affiliated with particular political-economic projects or religious traditions. In an attempt to overcome this situation moral philosophers and value theorists sought to apply logical systematization to disentangle ethics from these shadows. But, in doing so, moral theory became bogged down in second-order bickering.

When surveying this state of affairs, Bernard Williams was heavy hearted. Although generally in favour of the project of moral theory, he was disconcerted by the prevailing efforts of moral realism, labeling them as constituting a “peculiar institution.” Bernard Williams writes:

Moral claims, the humane disciplines of history and criticism, and natural science itself have come to seem to some critics not to command the reasonable assent of all human beings. They are seen rather as the products of groups within humanity expressing the perspectives of those groups. Some see the authority of supposedly rational discourse as itself barely authority, but rather a construct of social forces.

Derik Parfit captures this attitude well; he writes “Williams has a real target here. Many philosophers had hoped to find moral argument, or truths, that could not fail to motivate us. Williams, realistically, rejects that hope.” Williams lamented that morality had come to be encumbered with modernity, and was increasingly and excessively concerned with trifling with second order problems. Like Socrates, for whom philosophy was not, and could not have been, a discipline, Williams asked directly whether moral inquiry could make good on its aspirations. Williams thought not. Rather, it was better to find another kind of aspiration.

His alternative sought to break the shackles by definitively bypassing many of the second-order concerns. The result was Ethics and the Limits of Philosophy. Iconoclastic in temperament (John McDowell described it as a “polemic against a theoretical aspiration for philosophical ethics,”) Williams’ prime target is obligation and duty based conceptions of ethical thought which are unconditionally binding due to their objective grounding, which, while “not an invention of philosophers,” is nevertheless reinforced by a particular kinds of philosophical thought. As Williams writes “many philosophical mistakes are woven into morality.” For example, a derivative of moral reductionism is how objectively apparent obligations actually diminish the character and power of persons to act in a way that genuinely respects their moral powers, judgement, and integrity. This error arises with modernity and “and rests on various fictions about responsibility and blame that Williams challenges in such works as Shame and Necessity.” He directs his skepticism towards the purported authority of Kantian, Utilitarian, and Aristotelian ethical theory, and finds these traditions wanting and unsatisfactory.

The key criterion for Williams’ ethical theory was that it must be practical. By this he meant that it has to have a chance of being used in lay settings, and that it must have a chance of being lived, of being attainable. This does not mean he licensed negative ethical theories, that is, theories that reject the idea of correctness or incorrectness of thought, either. Williams is clear that such a negative theory is an error. Rather, his scepticism deals with the prospect that philosophy might be able to substantially aid ethics. He is thus optimistic that ethical life is possible while retaining commitments to the values of truth, truthfulness, and individualism. However, he does qualify this with an insistence on the irreducible plurality of virtues and the inevitability of insoluble dilemmas. In this respect, like rhetoric, the field of ethics stands adjacent to philosophy; it is more poetic than logical. There can be no transparent application of rationality; the good is not something that we deduce from first principles--this is simply unrealistic. The

216 Ibid. p196
217 Williams (2006a) op. cit. p74
good is rather the stuff of judgements, and we can be persuaded by good reasons and sentiments. Here, the goal should not be for an ambitious universal deduction of an externally valid foundational principle, along lines suggested by Parfit, but rather an attitude to practically build a social order.

In doing this, Williams’ primary contribution was to shift moral and ethical thought from the logic of utility to practiced beliefs. In other words, morality had to be based within human capabilities; there must be practical reasons for particular agents to be able to explain their actions and aspirations. The implication is that a person must actually believe the reasons they advance to justify their attributions, or morality should be based on reasons that a person could be persuaded by if presented with sound reasoning. This is a view of morality based upon internal reasons. The important intellectual move is to displaces rationality itself as a source of authority over live and ethical practice.

While correct, in my view, to dismiss the kind of rationality that is tied to institutions, Williams overlooks the value of reasonableness, and fails to entertain the notion that a person might be attracted to an ethical idea precisely because of its reasonable quality.

Williams opens up substantive ethical reflection to public reasoning, for streamlining in ethical deliberation is not to be preferred over the availability of a wide range of alternatives.\(^{218}\) I wholeheartedly agree with this, particularly the optimism that such encounters can produce. Practice and navigation via public reasoning opens up space for substantive ethical reflection. Encounters with other persons evolve not out of obligation, but out of reason, with the interlocutors themselves being the source of reason. In other words, ethics are a result of a person’s judgements. In short, Williams thought that moral inquiry cannot come from external reasons, but must be motivated by internal deliberation. With Ethics and the Limits of Philosophy, Williams probably has come the closest to making good on Wittgenstein’s remark.

\(^{218}\) Williams (2006a) op. cit. p112-117
Two claims are often relatively undifferentiated in discussions of equality. The first is a descriptive claim that all persons are equal. The second is a normative claim, that we should treat all persons as if they are equal. Williams suggest that opponents of egalitarianism misconstrue the meaning of the descriptive claim to dismiss the normative claim. They point out the truism that persons possess differential skills, talents, and endowments. But Williams does not grant that this truism scuttles the normative claim that people can be morally or politically equal. As an example, it would be ludicrous to suggest that a person’s skill as a cricket player grants them more moral or political consideration than someone who does not play cricket. It is a category mistake to allow non-relevant inequalities in skills, talents, and endowments to factor into considerations of their moral or political status.²¹⁹

It would be a mistake to think that a morally grounded equality has no need of a descriptive status. It is in the sense that persons are due equality by virtue of being intrinsically human. By ‘intrinsic humanity’ I mean that humans share common features such as emotions and feelings, desires and projects. These things are by no means trivial, but are key elements of our species. A description and designation as being a person, as being human, matters because it entitles one to claim normative equality. Being Human is a thick concept, a description, and evaluation. Persons are due equal respect because of their shared humanity and capacity as rational and moral agents. Equality of this sort admits no consideration of special treatment because of station, office, or class, but seeks to recognise persons as such.

It is at this point that the politics to recognise relevant descriptive properties becomes important, as this establishes membership of a normative domain and the right to claim a type of treatment and status, such as moral equivalency of persons. Much good work has been, and continues to be done, in this area, so I am going to set aside the question ‘What passes for membership in a given society’ and remain with ‘what are the normative grounds for membership.’

²¹⁹ As the argument confusing the descriptive and the normative is mobilised by right wing egotists, so it becomes a bait and switch, a card trick, by conflating different kinds of goods and dues. They mistakenly hold that the reason for medical treatment is the same as the reason for providing a gold medal to the fastest runner.
Using Williams's framework, we can derive that when cases of differential treatment do arise, this treatment must be supported by relevant reasons, such as a fair trial for incarceration and the like, but nevertheless do not strip someone of their moral personhood. For example, while a person might be justly incarcerated for having committed a crime, such treatment does not diminish his or her moral status or our responsibility to treat the person in accordance with this status. Unequal treatment must be justified and qualified, modest and minimal. If unequal treatment is unable to meet this criterion it is either irrational, or a guise for domination.

Just distribution is a process of giving persons what they are due in a manner that satisfies the requirements of justice at each point in that process. Just distribution thus fulfills a purpose. This process is somewhat similar to a chain: several interlinked pieces able to be articulated in several different fashions. Just distribution is therefore a process undertaken in the spirit of justice as opposed to a series of steps each of which meets simple procedural criteria.

Persons can be, and are, due many items. Items include objects, evaluations, a state of existence, and so on. Recent political theory yields the examples of Rawls’ primary and secondary goods; MacIntyre’s goods of excellence and good of effectiveness; Taylor’s mutual and convergent goods. These diverse categorization methods show dimensions, not distinction. So it is possible to have a good that is primary, effective, and mutual.

Due to the plurality of goods it is possible that a person, or set of persons, can have a partial interest in and preference for one form of distribution as opposed to another. Accordingly Williams argues that some goods should be distributed according to need, while others are distributed by merit. While Williams does not specify it, conceivably there are things distributed by desert, others by equality, and so on. In each case, a just distribution of a good depends on the type of thing to be distributed.

The multiplicities of things persons are due, and the multiplicity of distributional forms, combine in a problem of just allocation. That is, how to judge which distributional form is appropriate for which item. For instance one item distributed by one form may be just, while the same item distributed by another form can be unjust. For example, a
winner of a race may be due a particular acknowledgement for achievement, but if all
runners share in that achievement, the winner may feel bitter that his or her achievement
was not given its due by the item in question. To explain why the runner’s bitterness is an appropriate response Williams took it to be that items must be distributed according to their motivation for existence.

In each one of these cases, the purpose of the item should match its form of distribution. For this reason there is no tension in stipulating that in a competition gold medals should be awarded on the basis of athletic achievement alone, while also stipulating that medical care should be distributed to people who are in need of that care. These are different types of items, distributions according to merit and need can both be just, and it is not contradictory that these forms of distribution can exist side by side in a given society. We therefore have the following principle: The reasons for allocation decisions should accord themselves with the reason for providing the good. This principle is an attempt to overcome the reductive understanding of distribution by acknowledging the plurality of items and the plurality of claims.

It might be useful to provide an example of a just distribution form. Let us consider healthcare. The reason for this item is to relieve suffering; therefore the decision to allocate resources needs to match this aim. Need distribution should accord to capability, virtue, or deficiency and each person has the right to claim for his or her particular needs. Doing so would be just. This form of argumentation is now referred to as the need-distribution case, and is often advanced by Civic Republicans (what does a community need), proponents of virtue ethics, combinations of both, such as Michael Sandel, Charles Taylor, and Alasdair MacIntyre, and liberal capability theorists such as Martha Nussbaum and Amartya Sen.

Alternatively, if healthcare treatment is based upon profit seeking, Williams would claim that this is a misunderstanding of the primary intent of healthcare and he would rule it irrational because it fails to understand the reason for the item existing in the first place. There are inequalities of needs and the rich person who could purchase the healthcare, but does not need it, would be subordinated to the poor person who could not afford to pay for the care, but does need it. This inequality of need exists
independent of the ability to afford healthcare. Therefore, institutions should be organised in such a way as to fulfill their basic functions, such as a hospital delivering healthcare irrespective of other considerations.

A quick aside: Such a view might be able to accommodate the rights of producers if one takes seriously their claim that they need compensation, recognition, or some such thing for the items that they produce. Doing so requires that one acknowledge that there exists an inequality of need for compensation and recognition for the producer that is not shared by the person who did not produce the product.

As Williams applies his case for need distribution, he points out that there is certainly inequality of merit. Some people simply do not merit certain distributions. For example an Olympic Gold Medal is highly sought after, but there can only be one winner per event. This good, the recognition and award, must be distributed according to its reason for existence. However, not everyone merits this award. This is a simple example, but Williams claims the principle can be sustained in cases where there are multiple but limited goods, such as educational opportunities at prestigious institutions. This argument retains the competition over goods, takes into account the scarcity of goods, but preserves the moral equality of persons. So despite not receiving certain educational privileges I can be reassured that all is well on the moral front: other persons who do not merit such opportunities do not receive them either. In other words, the rich cannot buy themselves merit.

One difficulty with the need distribution claim is the sociological fact that the rich are in a position to buy their children access to merit. If the best trumpets go to the best trumpets players, and the rich can afford trumpet lessons, it is likely that some of them will end up meriting the trumpets. In this respect merit begets merit. It is much easier for winners to keep on winning. However, in spite of these remarks, it is worth noting that because winners do keep on winning, those who do not win need certain distributions so that they do not lose ground. They would need more than those who continue to win.

Let us now consider equality as a just form of distribution. Some goods are highly desired by many people. So until allocation, all applications will be afforded the
opportunity to apply for those goods. No one is *a priori* excluded from application. An *a priori* exclusion would occur when the following conditions are not met.

[Equality of opportunity] requires not merely that there should be no exclusion from access on grounds other than those appropriate or rational for the good in question, but that the grounds considered appropriate for the good should themselves be such that people from all sections of society have an equal chance of satisfying them.220

In practice, even while I cannot play the trumpet, I can at least apply to be allocated a trumpet. And if there are more trumpets than applications, my need will be fulfilled. If there are fewer trumpets than applicants, then my need will be judged according to whether I will be able to fulfill the reason for good by virtue of merit and ability.

At this point I think we should distinguish between genuine opportunities, what could be a fair shot, and *faux* opportunities. A *faux* opportunity is one in which a person would stand little or no chance to actually receive the good. An example would be job interviews where the ideal candidate has already been selected. The opportunity is set up for the purpose of procedural showmanship. The interviewee does not have a fair shot because, at least in this case, the decision has already been made. If genuine opportunities cannot be secured, then this calls for social reform.

Admittedly, there is something intuitively appealing about equality of opportunity, for on the one hand, it fosters the notion that if there was a fair shot the outcome could easily have been otherwise. If my interview was not successful, then I can say that the allocation was more arbitrary than some might otherwise think. ‘I had a good opportunity, but just missed out.’ Not much relief, but better than knowing that you were not even a contender for the job in the first place. On the other hand, equality of opportunity does not demand radical intervention, for most people have the opportunity to apply for goods. There is no prohibition on the student studying at an obscure inner city community college applying to attend Harvard’s Kennedy School of Government for a post-bachelor degree, but his or her acceptance is less likely than a comparable student from, say,

Princeton. Here equality of opportunity aids ambitions, but not necessarily distributions. So the prospect of a fair shot is as important as the fair shot at the prospect.

It is not my intention to be too dismissive of equality of opportunity, but rather to suggest, again, that opportunity rests upon the bedrock of radical contingency. It is perhaps more appropriate to intervene and neutralize luck at this point as a means to limit faux opportunities and give rise to more genuine opportunities.

The legacy of Williams’ argument lies in providing the foundation of the systematic study of the meaning of equality as a function of the recognition of personhood. This gave the argument timely political stock, particularly given the (then) decolonization efforts in Africa and South East Asia, and demands for civil rights in Western states. Moreover, he showed how distribution should not only be thought of as a political or economic exercise, but also, and perhaps more importantly, as a moral exercise.

Libertarian Objections

Robert Nozick responded aggressively to Williams’s need distribution claims. In Anarchy, State, and Utopia, he wrote that Williams’s argument is the best version of the argument for equality, but equates Williams’s need distribution claims—"The proper ground of the distribution of health care is health need. This is a necessary truth."—with the statement, "The proper ground of the distribution of barbering care is barbering need." This quick apparent refutation suggests that equality is not worth defending. Nozick wants to argue for the possibility that there can be criteria other than distributions according to need:

The major objection to speaking of everyone’s having a right to various things such as equality of opportunity, life, and so on, and enforcing this right, is that these “rights” require a substructure of things and materials.

223 Nozick, (1974) op. cit. pp 233-4
and actions; and other people may have rights and entitlements over those. No one has a right to something whose realization requires certain uses of things and activities that other people have rights and entitlements over. Other people’s rights and entitlement to particular things (that pencil, their body, and so on) and how they choose to exercise these rights and entitlements fix the external environment of any given individual and the means that will be available to him.224

Nozick claims that not all goods can be distributed according to their nature. Aside from this, what kind of resolution is available if persons disagree about the nature of the good? If we believe that we should use the item in the way that will bring about the most utility then it appears to be an unreasonable limit on liberty. Alternatively, if we allow the liberty of utility, such that a person can use an item as they see fit, then I think we can concede that need is a fairly flexible concept and can accommodate a wide variety of intentions without being unduly stressed. So Nozick’s barbers and landscapers are distributing by ability to need. However, they are profiting from that action. It seems odd to say that there can be only one reason for distribution. In this case one question would be whether the barbers and landscapers are profiteering from their distribution?

While there can surely be other forms of distribution, in my view, Nozick’s position represents a ‘Libertarian conceit;’ that is, the unashamed embrace of possessive individualism and the erroneous belief that one person’s success and another’s failure are disconnected. This is because the Libertarian’s ultimate fantasy is that individuals can be disconnected from others.

Regarding Nozick’s second objection, we must grant him his due. He does contribute a valuable insight that egalitarians tend to be concerned with outcome and achieving a certain set of conditions. That is to say egalitarians tend to view persons as consumers of goods as opposed to producers of goods. Nozick argued that producers have a certain set of rights, and one can infer from his position that a robust egalitarianism would provide a satisfactory account of the rights and limits of producers.

224 Nozick, (1974) op. cit p23
There is a good reason why egalitarians have tended to view persons as consumers; human beings have basic needs and reasonable wants that require satisfaction to reproduce the conditions of life. However, Nozick writes, if one considers the goods of society to be one big pie, the particular contents do not matter, only that they are distributed equally. Yet, such a view neglects how the pie came into existence, or how goods are modified by work and labour. One cannot consider the distribution of goods without considering how those goods were produced and the extent to which a person’s intent and their right to their labour and the goods they produce factor thereunto.

To demonstrate his point, Nozick supposes that at the beginning of the year, money is distributed equally. On the 2nd January Wilt Chamberlain strikes a bargain with a basketball team in which he will play for them in return for a portion of ticket revenues. Given his talents, many people come to watch him play and so Chamberlain comes to be richer than others in society, surpassing his initial allotment. Nozick wants to know how this is unfair, given fair allotments and voluntary contracts, just transfer.\textsuperscript{225} In other words ‘whatever arises from a just distribution by just steps is itself just.’ In my view, this is like saying that present outcomes in the universe are just because God is just, and his means are just, and thus this is the best of all possible worlds. It simply does not hold up.

A further difficulty with Nozick’s argument is that it neglects that many of Chamberlain’s attributes, such as height and stamina, contribute to his proclivity and talent to play basketball. Nor does it acknowledge the luck Chamberlain had that led him to pursue his career in basketball. Indeed, by radical contingency, Chamberlain can claim no responsibility for his initial physical attributes. Part of the reason Chamberlain pursued practice and investment in sport was because his genetic endowment and proclivity allowed him to have an edge in certain types of activities and to achieve the early success that underlies continued motivation to practice to excel further. Even here, Chamberlain’s early pathway to professional stardom was significantly influenced by chance encounters with people he met who were able to give him opportunities that

\textsuperscript{225} Nozick, (1974) \textit{op. cit}p163
were beyond the modest means of his working class parents. In other words, Chamberlain’s size, skill and commitment to training were not sufficient conditions on their own to propel him into a professional career. Events that a person can claim total responsibility for are influenced by radical contingencies associated both with the person’s proclivity for doing this activity and the social contexts in which their pursuit of the activity occurs.

Even as a professional, regardless of the fact that Chamberlain was more talented than his teammates, he was surrounded by all-star players in their own right and it hardly seems fair in a game where teams are necessarily more than the sum of their parts that these players, who supported his endeavours, and allowed him to be the showcase talent, would not receive comparable proportions of the ticket prices. As Marx noted on several occasions, people are not Robinson Crusoe’s, but come into society through the help of other persons. If we are to use Nozick’s own standard of evaluating ‘how things came about,’ then his example of Wilt Chamberlain’s “just distribution” may be misleading.

On the question of moral self-ownership, briefly: Nozick presumes that a person owns his or her body and mind. Radical redistributive claims then rub up against the self. For example, suppose that half of a given population have no eyes. Suppose further that there was a cost effective and minimally invasive method to transfer these organs from the advantaged to the disadvantaged. Nozick would suggest that involuntary removal of organs in this case would be acceptable following the logic of radical egalitarianism. There is therefore an absolute limit on what can be redistributed, although Nozick wishes to leverage this point to extend moral ownership over the products of just labour, and hence much like someone’s quality of life is diminished by loss of sight, so too does appropriation of property, in his view, diminish quality of life. Some egalitarians acknowledge the sentiment of Nozick’s point and argue a need for limits on what cannot be appropriated. However, there is no consensus on the precise nature of these limits or how they should best be determined.

Nozick, (1974), op. cit p153
Another strategy has been to push back against Nozick’s presumptions and claim that he simply stipulates rather than proves moral self-ownership. (‘At what point was the body unowned?’ ‘Can a person cede ownership of their body?’) Advocates of this position claim that even if one concedes to Nozick’s moral self-ownership argument, the resources required to sustain the body and life are common, such that these resources provide a means to deflate the self-reliance discourse that comes with self-ownership, and hence open up avenues for redistribution. Moreover, worries about violations of the self are off the table given that it is a form of levelling down rather than up and in no way promotes genuine human flourishing.

There are difficulties when we acknowledge again, via radical contingency, that we did not choose the bodies in which we exist or, perhaps more importantly, the circumstances that may give some bodies more value than others. Those who have “better” bodies, at a particular historical moment, due to some innovation in business or technology, have no grounds upon which to gloat and claim moral superiority. For example, the emergence of professional basketball in the United States in the mid part of the twentieth century created the possibility to valorize some bodily characteristics more than others. Holding questions of racial prejudice aside, even in a process where just distributions might be said to follow just steps, Wilt Chamberlain’s physical assets would not have led him to the same kind of rewards in the 1920s that they did in the 1960s.

However, I think this discussion distracts from more pressing concerns. The concept of moral self-ownership does not have much traction outside a limited set of political libertarians, and even there the concept is rhetorically deployed in a manner that does not meet the suppleness of Nozick’s intent, to the extent that he gave up on political

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libertarianism in his later years. A discussion of individuals’ rights has generally supplanted moral self-ownership, so the modified question is: What are the minimal rights a person requires to remain intact before radical redistribution rubs them raw? This absolute limit is something that almost all egalitarians respect. So self ownership cannot provide a basis for political solidarity, and it does not recognise duties beyond the self, as valuing humanity in other and in oneself.

To be provocative, I do not really see extreme differences between Nozick’s claim that a person is responsible for, and thus has rights to, the products they produce, and Marx’s claim that a person becomes alienated when the natural relationship between their products and their labour is disrupted by the imposition of exchange value and commodification. While residing in different philosophical projects, both positions share the concern that the correct order of things necessitates and turns on a proper and due appraisal of a person’s efforts. Both Nozick and Marx are correct insofar as egalitarians should take account of the role of producers and the rights they claims for their work. It is for this reason that egalitarians ought to incorporate responsibility rights into their frameworks.

It is at this point that Rawls is a dissenting voice, for he diminishes the claims of the more productive that they have rights and desert of their products. While not ignoring the motivations to produce, differential preferences, and even accommodating incentives, Rawls argues that rights of production are subordinated to institutions which accord themselves to the principles of basic fundamental justice. Here the reconciliation is that it is unreasonable not to consider responsibility a key component of basic fundamental justice. But the responsibility sought needs to be of a genuine sort, not one coloured by radical contingency. This is a complication as it introduces multiple utilities, the production/consumption divide, the acknowledgement that things are valued differently and cannot (nor should they), be measured on a common standard.

See Nozick, R. (1989) The Zigzag of Politics, in The Examined Life: Philosophical Meditation, New York: Simon and Schuster, pp286-296 In this chapter Nozick acknowledges that personal freedom can sometimes be achieved via collectivist politics, and thus redistribution of some form is warranted. In conceding this point, Nozick becomes a run of the mill contractualist.

There is much in the traditions of both of these writers that is self-contradictory, as well as different interpretations and points of emphasis, that said, this statement is fair.
Egalitarianism needs to encounter these problems, at least insofar as egalitarians themselves need to find a way to 'balance the scales.'

In sum, we can acknowledge the moral rights of the producers while still providing them with the means to use their advantages to produce items. In light of the radical contingency of the person, however, producers themselves ought to acknowledge the extent to which their fortunes and talents are contingent. And, they should keep in mind how in other kinds of societies with other kinds of economic structures they might not be able to use their talents. The affective personal benefit and satisfaction of knowing that one is producing for others is a kind of reward. The inviolability of the person needs to acknowledge the radical contingency of the person.

Reconciling the Partial and Impartial Perspectives

If one is to acknowledge the rights of producers one must encounter the problem of partiality. In Equality and Partiality, Thomas Nagel proposes that the grundbegriffe aspiration of any legitimate political system is the reconciliation of the partial and the impartial perspectives. The partial perspective is the view from the self, given the self’s distinctive interests, history, and commitments—what we might call his or her ‘projects.’ The impartial perspective arises when one entertains the partial perspectives of others and acknowledges their projects.

Due to our ability to consider both positions, Nagel writes, “we are simultaneously partial to ourselves, impartial among everyone, and respectful of everyone else’s partiality.”230 Emerging from this dual consideration are the following two points:

“Everyone’s life is equally important” and

“Everyone has his own life to live.”  

231 Ibid. As an aside, this provides normative grounds for the importance of the individual in political philosophy.
If one were reasonable, one would conclude that these other partial views and their entailments are as important to these people as yours are to you: Each of these people have their particular partiality, as do you. In this sense our partiality is of an equal sort.\cite{232} Moreover, considering that the impartial perspective opens up the space to acknowledge how your actions bear upon these persons. Impartiality is a long-standing claim in justice, manifesting in principles such as treating like cases alike to more modern conceptions such as the rule of law in the liberal state. This principle is also referred to as coherence, integrity, or uniformity and appears from Aristotle’s \textit{Nicomachean Ethics}, Hart’s \textit{The Concept of Law}, Fuller’s \textit{The Morality of Law}, Rawls’ \textit{A Theory of Justice}, Dworkin’s \textit{Law’s Empire} and Raz’s \textit{The Relevance of Coherence}. Recognizing that others are like you is a primitive requirement for extending justice to them. Nagel’s observation is of such insight that G. A. Cohen calls it “profound and unavoidable.”\cite{233} Indeed, Rawls noted the dilemma too, and it is evident in \textit{Political Liberalism} that he no longer wishes to reconcile these perspectives, and instead wishes to move away from his proposal of justice as fairness towards the idea of an overlapping consensus.

Nagel proposes that the dilemma arises, because to fulfil principle (1) requires that one cannot fulfil principle (2). This is because “[1] implies some limit to the licence given by” (2) to live a life unencumbered by social obligation.\cite{234} In other words we do not know how to do “justice to the equal importance of all persons, without making unacceptable demands on individuals.” The key point for Nagel is not that our \textit{current} state of affairs may not be able to satisfy both conditions, but rather that \textit{no} system could. And beyond any particular system there exists the real possibility that “we do not possess an acceptable political ideal” to orient our political actions for equality. Equality itself may be inherently inconceivable, because points (1) and (2) “pull in contrary directions.” If the satisfaction of both elements (1) and (2) is the key metric by which to judge the success or failure of a political philosophy then it seems unlikely that any political philosophy can satisfy it. If this is the case, without a clear consistent orientation, a political system’s legitimacy defers to the broad acceptance of its particular

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\item \cite{232} It also speaks to when and how we develop such capacities.
\item \cite{233} G.A. Cohen, \textit{Mind the Gap}
\item \cite{234} Nagel (1991) \textit{op. cit.}
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Nagel concludes “that a strongly egalitarian society [one that meets condition 1] populated by reasonably normal people is difficult to imagine” because any “standards of individual conduct which try to accommodate both [personal and impartial] reasons will be either too demanding in terms of the first or not demanding enough in terms of the second.” I take issue with this argument not only because the implications are too dire and the prospects too dim for egalitarian aspirations, but because utilitarian based political systems, of which consequentialism is a member, have a habit of turning persons into mere properties of a political calculus. This diminishes or discards their particular projects should the calculus work out that way.

Further, one can object to utilitarianism for other reasons as well, in that it privileges negative responsibility, fails to recognise that some acts are morally forbidden even if the pursuit of those acts might bring about the best possible result. In sum, utilitarianism simply cannot do justice to the significance of a person’s commitments and the projects with which they are deeply identified. Utilitarianism cannot make sense of the idea of a person’s integrity. Furthermore, a person’s projects can become subordinated to the projects of others, lessening a person’s integrity and ability to pursue their projects to the best of their ability. Intuitively, this seems to go against dictate (2). Refuting Nagel’s argument will take two steps. The first will address the question of the partial and the impartial, while the second will address Nagel’s conception of legitimacy.

As an example of the inability to simultaneously satisfy dictates (1) and (2), Nagel considers the partial projects of the rich and the poor. He acknowledges that given inequality, the rich should help the poor. As Cohen writes, “There is an amount of money which is so small that the rich could not reasonably refuse to give up.” Few deny this obligation. And discussions about the best method are reasonable and to be expected. But Cohen, in commenting on Nagel’s argument, also points out that there exists “a level [of money] so high that the poor would be unreasonable to demand it.”

\[235\] Which does not seem to be a problem for him given how he gives priority to (1)
In fortunate circumstances these two demands might be close enough that a coherent ideal could be stated. But what of cases where the gap between the rich and the poor is quite considerable? South Africa and Brazil are two contemporary examples of societies where the Gini coefficient, which measures income distribution, is so high that reasonable expectations are far enough apart that the rich have sufficient reason to resist the demands of sacrifice to help the poor while the poor are making unreasonably high demands of sacrifice for the rich. The apparent dilemma is that

the poor can refuse to accept a policy of gradual change, and the rich can refuse to accept a policy of revolutionary change, and neither of them is being unreasonable in this. The difference for each of the parties between the alternatives is just too great.\(^{236}\)

In effect Nagel is arguing that in reasonable discussion it is unreasonable not to recognise irreconcilable reasonable disagreements; in other words there are certain circumstances where there can be such a thing as asking too much, even if this is from the poor. However, in doing so he has left everyone blameless in wanting to secure their projects while the rich can pass at redistributing any portion of their wealth. This argument helps preserve the status quo of extreme deprivation and inequality.

Polemics aside, Nagel claims to have made the case that political systems cannot cater towards securing equality, at least a political system where the right has priority over the good. Removing justice from the orbit of the political system leaves it for institutions and persons to incorporate equality into their projects. If we are to give stock to Nagel’s argument, egalitarian justice concerns itself with the character and efficacy of particular institutions, not basic systematic arrangements. It seems as if the goal of Nagel's political philosophy is to ‘make things better,’ as opposed to revising the fundamental orientations of a society. Surely this gives too much credence to the status quo, and avoids the important discussion of what constitutes fundamental political justice.\(^{237}\)

\(^{236}\) Nagel, I think, check >>>>

\(^{237}\) This is somewhat typical of a genre of intellectual thought that developed in the 1990s which sought articulate a Third Way or a middle way between liberty and equality.
Merely having a partial perspective is not adequate grounds to suggest that that perspective is right. One needs to offer more than that. One needs to justify that perspective. Moreover, we ought to demand more of a person’s partial perspective than the banal claim that it is theirs. A legitimate partial perspective stems from minimally well-articulated justified true beliefs corresponding to the best approximations of how things are, not partial sentiments wishfully making unchecked assertions.

Nagel claims that for a political system to claim legitimacy it must be generally held by reasonable people to be unanimously acceptable. He writes of a reasonable objection:

what makes it reasonable for someone to reject a system, and therefore make it illegitimate, is either that it leaves him too badly off in comparison with others (which corresponds to a failure with respect to impartiality), or that it demands too much of him by way of sacrifice of his interests or commitments by comparison with some feasible alternative (which corresponds to failure with respect to reasonable partiality.)

A political system can be legitimate if, and only if, it honours both truths. But given that no system can do this, there can be no ideal theory to accommodate these truths. In other words, to use Nagel’s example, the poor could not reasonably reject the rich’s appeal to unreasonable sacrifice.

But this is intellectual sleight of hand. As Nagel uses it, unanimous acceptability does not require the system to be truly acceptable, but rather that no one could reasonably reject it. The corollary invoked is that if one rejects a system on unreasonable grounds, then it can be said to enjoy legitimacy. But this is a fallacy. Slaves’ failing to voice their opposition to slavery does not provide grounds for saying that slavery is legitimate. In effect Nagel is asserting and asking us to disprove his account. He forgets that burden of proof falls squarely onto his shoulders.

\[238 \text{ Nagel (1991) op. cit.}\]
As a further objection one could point out the degree to which reasonability is a custom conditioned by social and cultural conditions. But, if reasonability is customary, it is difficult to see it being philosophical bedrock, particularly given the weight it has to carry in this line of argument. One sociological extension of this objection is that education inequalities are such that some people do not have the educational capital to marshal a reasonable rejection of a particular system. A criterion of voicing reasonable rejection favours those with the ability to portray their rejections reasonably. This is a decisive oversight on Nagel’s part.

I am not suggesting that Nagel offers no insights into the dilemma and difficulties one faces when attempting to satisfy egalitarian justice. His is surely the best version of arguments that point to the difficulties that lie in reconciling liberty and equality. Still, Nagel’s version has a decidedly strong emphasis on positive liberty. To this extent it does not take adequate account of the degree to which equality can promote, and strengthen, negative liberty.

Equality decreases the particular constraints brought by inequalities, the types which hinder the fulfillment of partial objectives. In this variation, equality is not the ideal that hinders partial projects, but rather something that advances it.

Securing negative liberty fixates upon the extent to which there is an absence of constraints. This point is central to Isaiah Berlin’s criterion of acting “without interference.” In his essay, ‘Two Concepts of Liberty,’ Berlin argues that negative liberty “is involved in the answer to the question ‘What is the area within which the subject – a person of group of persons – is or should be left to do or be what he is able to be, without interference.’” Positive liberty addresses the question “What, or who, is the source of control or interference, that can determine someone to do, or be, one thing rather than another.” Berlin writes that these two forms of liberty are “clearly different,

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239 Robert Brandom in Tales of the Mighty Dead argues that rationality is historical. Similarly, I hold that reasonableness has a historical.


241 Ibid, 122
even though the answers to them may overlap.” Negative liberty attempts to limit the extent to which one is subordinate, or vulnerable, to the powers of others, and the world more generally. Clearly, this is an attempt to lessen, or resist, the role that contingency plays in advancing one’s projects. Berlin also gives attention to the kind of power which limits what a person “is able to be.” If we to give credence to this component, negative liberty is not limited to constraints on actions and projects, but it is involved with identity. We can shelve the Nagel dilemma by saying that identity trumps projects. This rests upon the claim that actions are not wholly constitutive of identity: People are more than the sum of their activities.

Using his parameters, Nagel is certainly correct to argue that; there can be no resolution between the partial and the impartial perspectives. But Nagel's parameters are flawed because they unnecessarily restricted to the priority of the right over the good. If one were to seek reconciliation between the good and the right, then one would need another avenue to assess the value of pursuing particular partial projects and to arbitrate between value conflicts as and when they arise. I advocate for an alternative view that incorporates Nagel’s language of partial and impartial into a Kantian-Rawlsian framework of justice such that a reasonable and principled reconciliation between liberty and equality is possible. In such a manner, reasonableness becomes a method to arbitrate amongst various partial perspectives.

**Reasons for Believing and Reasons for Acting**

Derik Parfit notes there are “reasons for believing” and “reasons for acting”\(^{242}\) Because of this division, it is possible to “have a reason to act morally even if we have no desire to do so.”\(^{243}\) Further, it is possible to have acts that superficially look similar, but are in fact motivated by either reason or desire. Imagine two people, one deaf, one with good hearing, in a room with music playing. The difference between them is that one person is hearing the music, while the other is not. Effectively, the two individuals are doing different things, and this difference might be observed over time as you come


\(^{243}\) *Ibid* p121
to realise that one shows no response to the music. Parfit claims two people are acting differently for different reasons. In this respect, reasons are a property of objects themselves, or how objects ‘line up.’ Being properties of objects themselves, reason exist independently of our belief in or awareness of objects, but persons can “understand and respond to reasons.” In this respect, Parfit’s project puts him in direct disagreement with Williams. Whereas Williams sought to banish Utilitarianism and Kantianism, Parfit’s rationalism seeks to reconcile them.

To do so, Parfit draws together three principles. The first is rule consequentialism wherein “everyone ought to follow the principles whose universal acceptance would make things go best.” The second is Rawls’ Kantian Contractualism wherein “everyone ought to follow the principles whose universal acceptance everyone could rationally will.” Third is Scanlon’s modern contract theory wherein “everyone ought to follow the principles that no one could reasonably reject.” Putting these together, Parfit’s principle is that “an act is wrong just when such acts are disallowed by some principle that is optimific, uniquely universally willable, and not reasonably rejectable.” He then tests this unique convergence principle against moral dilemmas in an effort to establish fresh grounds for moral inquiry.

This position vehemently denies a subjective account of reasons. In doing so a person can be a poor reasoner, insofar that they do not have the capabilities to detect an object’s reasons, may have faulty ideas, lack suitable techniques to detect the reasons, or are deliberately misconstruing the object. All fall short of Rawls’s criteria for good judgment. What Rawls might add though, is that we desire to be good judges, because this helps advance our welfare. In this respect, there is a subjective preference for objective reasons. This is how a reasonable person acts.

The difficulties in this view lie in two areas: first, the moral agent disappears to rationality. Second, this perspective unnecessarily downplays the social dimension of the good life. Due to these differences it is important that considered judgement is used to assess which reasons are being used to advance a particular aim. There will arrive occasions when the complexity of a case requires that a person be clear about what we are applying our considerations and judgements to. In other words, we need to be
concerned with seeking out and gathering all relevant knowledge. The key lesson at it applies to liberalism is to understand that liberal politics always already requires judgment to effect reconciliation or navigate between the various tensions, and that a person will likely always be tugged at from multiple directions. Sometimes there will be reasons this way, sometimes there will be reasons that way. What is important is to examine what the reasonable condition of virtue happens to be.

**Anderson’s Theory of Value**

Before asking whether something can be valued, we must ask whether it makes sense to value it. Elizabeth Anderson argues that the effort to investigate “what worth is” is “an attempt to make sense of our own valuational responses to the world.” Seeking worth is partly about understanding justificatory practices. Here “the link between self-understanding and justification is provided by the fact that valuations are expressive states.”

If we are to put stock in Anderson’s approach, then the distribution of rewards is, in part, a hermeneutic exercise. Moreover, it is a public hermeneutic exercise: “Since meanings are public,” she explains, “I can understand my own attitudes only in terms that make sense to others.” Meaning relies upon convention and practice. Therefore value and evaluation inherit this feature. There exist,

a complex of standards for perception, emotion, deliberation, desire, and conduct that express and thereby communicate one’s regard for the object’s importance. To love someone involves the performance of many actions which express that love, which show the beloved that he or she has a special importance to the lover.

Herein value is a conventional practice within an epistemic community. Anderson expands her position along similar lines. She writes: “Attitudes are also partly constituted

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245 Ibid. p3

246 Anderson (1993) *op. cit.* p11
by norms that determine their proper objects." This is a question of public naming and the conventions of public naming that, to quote Anderson, reside in the fact that “people interpret and justify their valuations by exchanging reasons for them with the aim of reaching a common point of view from which others can achieve and reflectively endorse one another’s valuations.” By this she means, the giving and taking of reasons with others who are similarly situated.

To judge that one’s valuations make sense is to judge that they would be endorsed from that hypothetical point of view. To be rational is to be suitably responsive to reasons offered by those attempting to reach that point of view.247

And

[an item] is valuable if and only if it is rational for someone to value it, to assume a favorable attitude towards it.248

What we have here is a mixture of the impartial position and rational attached valuation. Anderson remarks elsewhere that

Individuals are not self-sufficient in their capacity to value things in different ways. I am capable of valuing something in a particular way only in a social setting that upholds norms for that mode of valuation. I cannot honor someone outside a social context in which certain actions, gestures, and manners of speaking are commonly understood to express honor. More important, I do not adequately express my honor for another unless others recognize my honor as appropriate. To care about something in a distinctive way, one must participate in a social practice of valuation governed by norms for its sensible expression.

So the difference between, for example, appreciating something and using it lies in the social relations and norms within which we produce, maintain, distribute, preserve, and enjoy or otherwise realize the value of that thing. To realize a good as a particular kind of good we place it in a particular matrix of social relations.249

Further

247 Anderson (1993) op. cit. p3
248 Anderson (1993) op. cit. p17
249 Anderson (1993) op. cit. p12
There are almost no constraints on what may be sensibly liked. But there are significant constraints on what can be a sensible object of other modes of valuation, such as love, respect, or admiration. It doesn't make sense to admire musical performances for being sloppy, humdrum, or out of tune. It doesn't make sense to respect people for being servile, immature, petty, or sleazy. It doesn't make sense to romantically love heartless people. … [My theory] says that what is valuable is the object of a rational favorable attitude, not the object of just any favorable attitude. If mere likings are not subject to rational criticism, they are not rational, but arational. Their objects, therefore, lie only at the margins of the good.\textsuperscript{250}

The implication is that the market is a means of valuing and distributing goods produced specifically for the market; however it is terrible at valuing goods that are not meant to be distributed with this means in mind.

Specifying the conditions under which a particular type of item should be distributed according to a particular form requires that we exploit the relationship between item and purpose to specify a certain form and impose conditions on the world to meet the procedure for determining satisfactory criteria. Recall that the systematic study of justice requires a framework for understanding the conditions of an item as a means to distribute it. By necessity this requires that we value and understand the proper purpose of the item.

We value different items in different ways, depending upon their features. Different goods, Anderson argues, “differ in kind and quality: they differ not only in how much we should value them, but in how we should value them.” It is serious mistake to think that all items ought to be valued in the same way. By implication, it is therefore a mistake to think that they can all be crisply valued according to the exchange-value of capitalist markets. As useful as the capitalist market happens to be at distributing products, it is not the only means of distribution, nor is it the only means of evaluating an item due to be distributed. If an item becomes a commodity, it means that its value can be expressed by a price.

\textsuperscript{250} Anderson (1993) op. cit. p12
Indeed, the market society can be extremely detrimental to justice as it cannot properly value or distribute certain items, or it changes the purpose of the item thereby degrading it. For instance, if we hold that healthcare is a market, then we no longer understand the item by its purpose, which is to help the suffering. As another example, consider that most people refuse to put a total price on human beings and then sell and trade them, because this undermines dignity and freedom; it fails to respect people’s human rather than their economic value. Still, people tend to accept actuarial assessments of their lives and the resultant insurance on their lives, or how their time has been commodified as labour, or how governmental planning for taxation examines what people are worth and how much they will contribute to society. Market forces, trading, and expectations of return are all precisely this. Doing such things typically quantify areas of life that are qualitatively valued, neglecting that there are some values which trump prices. This undermines justice as well as having negative consequences for the improper evaluation of things. For example, universal commodification is irrational because it systematically distorts the objects’ significance and value. This argument regarding valuation and the means of distribution is primed not for efficiency, nor exchangeability, but rather for provision.

There are two possible objections to Anderson’s argument about the purposeful end of a thing to social practices: Conventionalism and essentialism. The conventional critique would hold that evaluation practices are excessively subject to prevailing norms. The essential critique is that things have a fixed nature. In picking up upon this point, Michael Sandel asks “Is it possible to argue that markets corrupt or degrade certain goods, without lapsing into conventionalism or essentialism?” 251 I suspect so, and explain how in the following section.

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Markets are Not Morally Neutral

In his Tanner Lectures, ‘What Money Can’t Buy’, Michael Sandel tells the following story:

In 1995, the Royal Canadian Mounted Police sold to Disney the right to market the Mountie image worldwide. Disney paid Canada’s federal police $2.5 million per year in marketing rights, plus a share of the licensing fees for Mountie T-shirts, coffee mugs, teddy bears, maple syrup, diaper bags, and other merchandise. Many Canadians objected. They claimed the Mounties were selling out a sacred national symbol to a U.S. corporate giant. “It’s not the price that rankles. It’s the sale,” complained an editorial in Toronto’s Globe and Mail. “The Mounted Police have miscalculated on a crucial point. Pride.”252

The obvious explanation for this commercialization of a branch of government is to top up the coffers and offset operation costs in an era characterized by relaxed corporate taxation codes. Notwithstanding this explanation, Sandel contends that on another level what is occurring is a publicity exercise. “Government, widely disliked,” he writes “seeks to bolster its popularity, even its legitimacy, by leaning on popular images or icons of the commercial culture. Amidst widespread mistrust of government and dissatisfaction with politics,” these icons are repurposed by political entities to take advantage of the item’s social value.253 These items are used to prop up the political regime and contribute to a form of regime maintenance.

Consider two other examples. Until the advent of private prisons, incarceration was a cost carried by the state as but one incentive to ensure that prisons fulfilled their duty to citizens and residents to combine public protection with the attempt to keep crime at reasonably low levels through rehabilitation. With privatization, however, the state has less of an incentive to support rehabilitative and community building initiatives to decrease the crime rate. Additionally, prisons now arguably exist with a vested interest in draconian law enforcement, punishment, and prolonged incarceration periods. In other words, the privatization of penitentiaries has created a private stake in the extension of

252 Ibid, p92
253 Ibid, p93
the domestic security state. Another example might be organ sales, the market of which interpolates every person as a potential seller given the right circumstances and which minimally prompts persons to think why they should not sell their organs.

Taken as a whole, the commercialization of government, the commodification of objects and practices, and privatization of institutions, are emblematic of what Sandel identifies as “one of the most powerful social and political tendencies of our time, namely the extension of markets and of market-oriented thinking to spheres of life once thought to lie beyond their reach.”

Together, regime maintenance, the marketization of persons, and the private capture of public duties, is an example of capitalism seeking growth by universalizing market relations.

There are two kinds of objections to this process that Sandel identifies: Coercion and corruption. Regarding coercion, as markets are not purely voluntaristic, injustices are likely to occur as people confront the “necessities of [their] situations,” most often because of categorical inequality. Regarding corruption, in re-evaluating goods and practices markets come to distort these goods and practices. For example:

If the sale of human body parts is intrinsically degrading, a violation of the sanctity of the human body, then kidney sales would be wrong for rich and poor alike. The objection would hold even without the coercive effect of crushing poverty.

Of the two objections, it appears that corruption is a stronger objection because it exists irrespective of whether inequalities are present. Rather, it attends to alienating effects that markets produce, not only in treating people as commodified goods that can be evaluated and exchanged, but insofar as that this extends to other goods as well.

The deep critique for Sandel is that market values have entered “into spheres of life where they don’t belong.” This has had a moral impact on goods, altering them in evaluative practices, distribution, and distorting us when we come to use these goods in this distorted fashion.

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254 Ibid., p93
Practically this comes to alter the reason for the distribution of goods, and now sits them in a political economy of distribution, as opposed to being items in their own terms. If we recall Bernard Williams reasons for distribution of goods, the disembedding actions of the market come to reroute these distribution patterns and reasons, often subordinating the just and righteous reason, the reason that motivates the objects’ existence in the first place.

In making these observations, Sandel is elaborating upon Anderson’s observation that things are changed by the way we value them, and this has a moral dimension. In failing to value objects or practices in the right way, we fail to respect them; we fail to demonstrate our due appreciation and our capacity to give fair, just, and true evaluations of things. This invokes an idea of due and proper regard for items, and particularly for humans when we come to regard each other. Commodification neglects that things sit in social practices. The critical lesion, is that value cannot be reducibly conflated with price. Rather value needs to be understood in its social, historical, cultural, and political totality.

This has political implications. Being a civic-republican, for Sandel, equality is outweighed by the virtues cultivated by communities, at times best expressed by the democratic tradition.

Democracy does not require perfect equality, but it does require that citizens share a common life. What matters is that people of different backgrounds and social positions encounter one another, and bump up against one another, in the course of ordinary life.

Asking “Are there some things that money can’t buy? My answer: sadly, fewer and fewer. Today, markets and market-like practices are extending their reach in almost every sphere of life.” This is a lament. Sandel concludes: “The question of markets is really a question about how we want to live together. Do we want a society where everything is up for sale? Or are there certain moral and civic goods that markets do not honour and money cannot buy?”

\(^{255} Ibid., p90\)
Sandel is clearly making reference to a radical disharmony between the ways of
perceiving objects and their intended purpose, and how they come to be co-opted by
exchange logics within a market society. In this respect, Sandel’s argument resonates
with a line within the wider Western literature on alienation.

Michael Walzer argues that egalitarianism, much like liberal distributive justice,
has a tendency to conflate spheres of justice by attempting to organize them according
to a limited number of precise principles.\textsuperscript{256} He argues that there are multiple kinds of
goods and multiple spheres of distribution, each of which has a set of established criteria
developed by shared cultural meaning as to the means and reason to distributive goods.
Nil Holtug and Kasper Lippert-Rasmussen portray Walzer’s position as follows:

In the United States, for instance, it is part of the cultural meaning of
medical care that it should be distributed according to need, of higher
education that it should be distributed by talent, of political office that it
should be distributed according to votes, and of honours that they should
be distributed according to desert.\textsuperscript{257}

Walzer emphasizes that goods are both defined and distributed according to their
cultural meanings, their conventions as it were. As such they each have their own
criteria for distribution. Hence, abstracted principles alien to these communities or to
these objects can distract or even fail to advance justice in any given community. Walzer
wants to press home the point that failure to do justice can arise when one uses the
ends in one sphere of justice to advance the means of another sphere of justice, for
example using your political office or title as a means to advance personal wealth. Most
would easily agree that the use of public resources for private gain is corrupt, and that
this is insufficient attention and confusion to ends and means. Justice can best be
advanced, this position goes, by respecting the reasons for the production of the object
or the provision of the good.

While intuitively seductive, the difficulty of Walzer’s position comes when we
concede that justice is a set of cultural meanings specific to a particular place and time.

\textsuperscript{256} Walzer, M., (1983) \textit{Spheres of Justice}, Oxford: Basil Blackwell
Leaving aside the question of whether cultural meanings can be sufficiently shared to make them a suitable base for justice insofar that there is some understanding of what is appropriate to distribute and what is not, the more critical question concerns the excessively relative trappings of Walzer’s argument. In other words, the sphere of justice argument does not subordinate itself to normative moral codes, but rather attempts to justify existing practices. But, such a view leaves little room for the cultural meanings to be mistaken, fallacious, or blatantly bullshit. The internal coherence of a set of ideas matters little if they cannot be supported by external evidence. This hardly qualifies as a just society.

In spite of these criticisms, the spheres of justice argument can accommodate Anderson’s and Sandel’s comments on plurality of value. Not all items of justice can be reduced to economic factors and a ‘balancing of scales.’ That said, Anderson and Sandel do hold that there are items that are shared across each sphere such that egalitarian claims on the redistribution of these items in realms that might not be immediately clear as concerning equality, do in fact factor into discussions of ensuring that persons are equally well off. Suffice to say that egalitarians should not be too quick to dismiss certain aspects of the different spheres of justice argument.

For example, while it does not make sense to claim the redistribution of friendship, it is naïve to claim friendships have no, and do not generate, economic or political utility, even if this is not their primary purpose. Indeed much of the Social Capital literature seeks to demonstrate the particular ways in which friendship and acquaintances help this kind of capital to accumulate, and the ways in which it can be mobilised for other projects. Indeed, in the digital age characterized by social media sites such as Facebook and LinkedIn “friendships” are valorized like never before. So even with confined redistribution efforts, for example those limited to a pure economic sphere of justice, it quickly becomes evident that other spheres of justice are entangled. Indeed, even if we are to move away from economic concerns, and abide by the criteria of the good, a person’s capability, capacity, and well-being are impoverished by the lack of friendships. This is because the friendless person lacks good and supportive social relations at home, work, and in the community. My response is that a confined redistribution of one sort or another, whether it be along the lines of wealth, resources or
opportunities, will have a positive by-product for the person in other aspects of their lives, such as with face to face friendships. At a basic level, having some more wealth, resources, or opportunities can allow a person to make and sustain the benefits of friendships that they might not have had otherwise. This view pushes past those proposing sufficient resources to make friends.

This approach of a confined egalitarianism avoids the unnecessary Gordian knot of whether to it is reasonable to compensate a person who has no friends, or compensate them because they do not have the type of friends who will generate a certain level of social capital that can be used to generate economic wealth. The precise point of intervention is the redistribution of one set of values.

Some feminists criticise communitarians for lacking a critical stance on the practice, traditions, and communities that communitarians celebrate. Elizabeth Anderson and Iris Marion Young deploy similar criticisms of egalitarianism. They claim that it has a disproportionate concern for compensation for brute bad luck and neglects to pay attention to how inequalities in social relations provide the means for dominance, oppression, and unfair discrimination. They advise egalitarians to a) heed these areas of concern, and b) rejig their concerns to find mechanisms to encourage the full, equal, free and autonomous participation of all in public and democratic life as well as decision-making procedures.

Anderson and Young are arguing for a degree of sufficiency to meet people’s basic needs and advance their projects. The apparent benefit of this approach does not require that every inequality be remedied, or that all differential luck be neutralised, only the ones that ‘matter.’ Furthermore, the sufficiency specification stipulates that people will have something—at the very least conditions where domination, oppression, unfair discrimination are somewhat absent—irrespective of their conduct. The difficulty with this view is that it is too colored by subjectivism. Other persons have other things dear to them; things conceived Anderson and Young would not consider. For example, feminists

informed by critical race studies point out that the some inequalities that do not matter for suburban white middle class women, still matter for the environments where they live. Sufficiency, at least in this case, is a poor political doctrine because groups will always specify different priorities that require sufficient attention. Attempts to balance fair resource allocations to these groups become a sticky issue given different specifications of sufficiency and scarce resources. It raises the question of at what point does sufficient provisions to one group or individual come at the expense of fair allocations to another group or individual? The feminists’ comments are worthwhile, and reiterate Williams’s expanded conception of equality where unjustified domination, blatant oppression, and unfair discrimination are considered irrational.

We can avoid this charge by balancing equality with other values, and in relation to the nature of the particular good at hand. Larry Temkin best represents this position when he writes that:

I, for one, believe that inequality is bad. But do I really believe that there is some respect in which a world where only some are blind is worse than one where all are? Yes. Does this mean I think it would be better if we blinded everybody? No. Equality is not all that matters.259

As Temkin indicates, efforts to promote equality are motivated by desires to improve the condition of the many, not decrease the condition of the few. Proponents of levelling down, and those scare mongering using its name, have little respect for this spirit.

Regarding coercion—“What seems like a free exchange of goods or services for money is not truly voluntary, because economic coercion, or economic necessity, is operating in the background”260—Sandel, invoking virtue ethics and civic-republican ideals, argues that even consent to certain kinds of transactions impoverishes public good. I want to add more weight to this kind of critique, first, by drawing on the Marxian idea that commodified transactions reinforce the dialectic of social abstraction by perpetuating the overlap between class differences and the perceived utility of persons.

The lesson for egalitarian aspirations is that one cannot reduce assessments of things such as life chances, opportunities, or income to assessments of allotments, common or otherwise, along a track of one-dimensional value. The critique of inequality must not perpetuate the same mistakes of capitalism. Rather, egalitarians need to be sensitive to the complexities that underlie the types of allotments. Moreover, the prime principle is that equality cannot be the prime principle, but must rather be reserved for certain places and times, items and events. In other words, there must be good reasons to apply equality because there are limits of applicability.

Equality is, in part, making provisions for those who need it, whatever that need happens to be, and whoever it happens to be, with what you happen to have. Need is not a priori specified. Failure to qualify for egalitarian justice does not preclude other types of dues.

This also allows us to entertain ideas about priority and sufficiency, and let them sit besides egalitarianism. Rawls’ difference principle is the quintessential example of where the claims of the worst off must absolutely always be given priority. Sufficiency specifies a level of allocation that is enough. In other words, there are limits to compassion. Roger Crisp posits the ‘sufficiency principle.’ This entails that we should redistribute until a person’s welfare needs are met. This view is defended in that we care less about inequality differentials and more about welfare. For example the inequality between the rich and the super-rich are less of a concern than securing a decent minimum welfare. This decent minimum welfare is to be provided to people in spite of the reasons for their need, whether that need can be said to result from systematically unfair allocation or taxations polices or because of a person’s own poor choices. This view is often cashed out in policy as a minimum wage, or basic income grants.

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This conception has merit insofar that it restricts itself from stipulating the good. A person can be given a certain amount to pursue his or her own good. Some believe there is good to be had in not working. Others might disagree. Harry Frankfurt argues that comparison matters less than the commitment to assist persons to lead sufficiently good lives.\(^\text{262}\) Here the emphasis is placed on whether people have enough to flourish. The difficulty with sufficiency is in its determination. For example, in South Africa, Verwoerd thought that the Bantustans were sufficient to accommodate the political aspirations of black South Africans. In this respect, political determinations of sufficiency become a means to deny persons their equal due in a prosperous society.

It is likely that egalitarians will be sympathetic, but not satisfied, with the provision of sufficient resources to enable a person’s choices. But, they would hold that one needs not to be limited by a particular threshold but should rather be concerned with the political consequences born by relative inequalities. However, luck egalitarians would dispute that a person should be not held responsible and accountable for their choices.\(^\text{263}\)

As it applies to a health system, for example, this would mean that there should be a public health insurance provided unconditionally. Private health insurance seeks to profit from people, therefore they often do not cover people who have an underlying health risk; at times they even deny claims when a pre-existing but unknown health condition emerges. The benefits of public insurance is the spreading of costs over the entire population, something that private health insurance will not do. Admittedly, this would not be able to satisfy the diversity of all health policy preferences. Nevertheless, if we recall Williams need distribution principle, we can argue that equally resourced public health insurance should be distributed according to need, and that as all people need a health policy, it provides at least some minimally sufficient equality. So a person could opt out of such public insurance should they believe that they do not need it, or if they believe that it does not satisfy their preferences. Such a policy tailoring avoids having to speculate on satisfying all hypothetical preferences and the radical subjectivism that

\(^{262}\) Frankfurt (1987) \textit{op. cit.} pp21-43

\(^{263}\) Temkin (2003a). See also Crisp’s (2003b) response to Temkin.
comes with preferences and tastes, and instead attempts to accommodate the ability to 
fulfil preferences through other means.
Chapter 4.

Hard Luck and The Problem of Radical Contingency

Skepticism about radical contingency is due to the presence and extent of unknown indeterminacy in moral life, where moral judgements are wholly determined by external factors.²⁶⁴ As Kant wrote, “if all value were conditional, and thus contingent, then no supreme principle could be found for reason at all.”²⁶⁵ But, beyond values being contingent, the predicament is not just that persons themselves respond to contingent factors, but rather that they themselves are deeply formed by contingency.

Most people would intuitively agree that each of us could quite easily have been otherwise, at least with respect to our circumstantial luck. Thomas Nagel provides a neat scenario, writing that

Someone who was an officer in a concentration camp might have led a quiet and harmless life if the Nazis had never come to power in Germany. And someone who led a quiet and harmless life in Argentina might have become an officer in a concentration camp if he had not left Germany for business reasons in 1930.²⁶⁶

As another example, suppose that you could have been born into a Muslim family, while I could have been born into a secular or Christian family. These births provide the initial

²⁶⁴ Radical contingency is not to be confused with double contingency. Whereas radical contingency is the presence of unknown indeterminacy in moral life, double contingency is the conceptual description provided by Talcott Parsons and Niklas Luhmann respectively to the indeterminacy present in every social encounter. Both Parsons and Luhmann wonder how social interaction can be maintained, and how social order survives such indeterminacy. Followers of Parsons and Luhmann sometimes expand this problem to include the possibility of shared meaning, but this is different kind of problem than the one dealt with in this paper.


moral standpoints by which, and through which, persons come to encounter the world and make ethical judgements and assessments.

Beyond place of birth, there is also the acknowledgement that radical contingency is involved in our choices and courses of action. The popular expressions ‘Walk a mile in another Man’s shoes’ and ‘There, but for the grace of God, go I’ seem to acknowledge that the particular unfolding of life seems to rest on the sensitivity of life to these contingencies. For these reasons the investor Warren Buffett is a notable critic of dynastic wealth. He describes those born into wealth as “members of the lucky sperm club.”

Admitting radical contingency appears to retreat from the idea of agency and responsibility, duties and virtues. If we follow this global skepticism, David Schmidtz writes, in effect, the possibility of our being deserving, to take one example, “ended with the Big Bang.” This line leads us to the following argument:

Even character, talent, and other internal features that constitute us as persons are arbitrary so long as they are products of claims of events containing arbitrary links. Every causal chain traces back to something arbitrary, namely the Big Bang. Therefore nothing is deserved.

Here blameworthiness and praiseworthiness are meaningless empty designations. This global skepticism is widely held across the philosophical spectrum. For example in The Constitution of Liberty Hayek says:

267 The problem is not that luck, contingency and external factors permeate the human condition: People generally accept that a range of constitutions, endowments, capacity for efforts, and stations exist, and sometimes these are inherited. But people generally reject the notion that these things in and of themselves give one person more moral standing than another. The problem is not that Jonathan Oppenheimer is richer than I am, or that Jonty Rhodes a better cricketer; or that I am richer than others, and possibly a better cricketer than some. Rather it is that these things alone should not make them my moral superiors, or myself morally superior to others. It may well be that Jonathan Oppenheimer is a better person and my moral superior, but if he is, that assessment should not be based upon luck or contingency elements, but rather stand solely on his responsible actions. Therefore I have a right to feel disgruntled if and only if Jonathan Oppenheimer is held in high moral esteem solely by virtue of his position.

A good mind or a fine voice, a beautiful face or a skilful hand, and a ready wit or an attractive personality are in large measure as independent of a person’s efforts as the opportunities or experiences he has had.\textsuperscript{269}

Other writers point to the degree to which this deep radical contingency of persons has political implications. Rawls, for instance, in \textit{A Theory of Justice} writes:

one of the fixed points of our considered judgements \[\text{is}\] that no one deserves his place in the distribution of natural endowments, any more than one deserves one’s initial starting place in any society. The assertion that a man deserves the superior character that enables him to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit.\textsuperscript{270}

Gillian Brock is also sceptical. She asks, “how can we deserve anything since we don’t deserve our asset bases?”\textsuperscript{271}

It is a neat argument of sorts as it need not investigate actual histories of particular people, since we know that due to radical contingency, agency and responsibility are out the door. Whatever due is to be given then is a matter for law and politics, not morality.

But this seems intuitively muddled. First, the compatibilist conceptions of agency and responsibility are entirely consistent with radical contingency. Even a libertarian speaking about free will could maintain that we have \textit{some} agency and responsibility for our actions, even if we are products of our circumstances. Given any set of circumstances, an agent could choose between options, and that choice would be not be a product of the agent’s circumstances. Radical contingency does not make it the case that we have \textit{no} agency or responsibility.

\textsuperscript{269} Hayek, F., (1960) \textit{The Constitution of Liberty}, Chicago: Chicago University Press, p94
\textsuperscript{270} Rawls (1971) \textit{op. cit.}, p104
Second, taking away responsibility as the global sceptics do ends up undermining personhood, and indeed the conception of the self. As Michael Walzer asks:

how are we to conceive of [men and women] once we have come to view their capacities and achievements as accidental accessories, like hats and coats they just happen to be wearing? How, indeed are they to conceive of themselves?\(^\text{272}\)

Likewise, Michael Sandel has noted in several places, we are encumbered selves.\(^\text{273}\) The pursuit of projects and our situated intent play vital roles in our self-conception. They are not mere incidentals, particularly if they are the result of deliberate cultivation.

**Bernard Williams and Radical Contingency**

Due to his longstanding philosophical engagement with the problem of radical contingency, Bernard Williams advanced one of the most nuanced and subtle understandings of the problem, drawing attention to its implications, many of which have been outlined above.\(^\text{274}\) His work offers rich intellectual resources to think about this task. For this reason, I have chosen Williams to be a foil against which I shall address the problem, but advance the case that despite radical contingency, there remains sufficient justification for normative claim-making. Accordingly while luck is not benign, (it certainly matters and it should be recognised that it matters,) its involvement in sequences, actual or possible, does not scuttle or diminish normative claims.

Motivating Williams’ project was his suspicion that supreme moral principles did not exist. By this he meant that supreme moral principles had little authority. Indeed he believed that we “would be better off without it.”\(^\text{275}\) Consequently, Williams was wary of any system that claimed as much. In holding this position, he rejected transcendental

\(^{272}\) Walzer (1983) *op. cit.* p260


\(^{274}\) Of particular contribution are his books *Morality* (1972), *Ethics and the Limits Philosophy* (1985) and *Shame and Necessity* (1993)

\(^{275}\) Williams (2006a) *op. cit.* p174
accounts of deontological ethics. Rather than being motivated by a kind of naturalism, John Cottingham proposes that this rejection “seems instead to be a kind of resigned acquiescence, an acceptance that we have come to rest content in the prospect of a life grounded in no more than how things merely are.”

If Cottingham is correct there exists a certain ethical pessimism in Williams’ work, one that directs itself at the supposed comfort that universal moral systems provide irrespective of whether they are based on theology, a set of propositional connections between the self and the cosmos, or even an understanding of objective reality. Instead, Williams says that we should sober up and confront things as they are. One must “[refuse] to present human beings [as] ideally in harmony with their world.” Additionally, Williams found ordinary moral practices wanting. They were “empty and boring” a holdover from a previous era (a “peculiar institution,”) which required significant reformation if they were to aid authentic human flourishing. Together, these points combine to argue for a proper unvarnished understanding of historical and limited circumstances such that it will allow us to treat others in the manner that advances human flourishing.

In Truth and Truthfulness, the last major work before his death in 2003, Williams sought to detail radical contingency and its implications. He wrote that “radical contingency in our current ethical conceptions,” draws attention to how “they might have been different from what they are” and that once realised this becomes a disruptive force for the security of ethical thought and practice. The goal is to disturb us through pointing out that the “apparent contingency in our deepest beliefs and attitudes” are products of a particular historical development. Williams, in a similar vein to Nietzsche, emphasises that radical contingency throws into question the “authority” of morality. Although somewhat obscure, I understand his conception of the authority of morality to

279 Williams (2006a) op. cit. This is the title of the last chapter his book and refers to the practice of American slavery.
281 Cottingham (2008) op. cit. p24
refer to the reasons that we *ought* to act morally. If that is what Williams has in mind by the authority of morality, then he seems to think that radical contingency undermines our confidence that we ought to act morally. Williams notes that such a conclusion is bitter-sweet. On the one hand it opens up possibilities to consider other moral and ethical arrangements, but at the same time, introduces uncertainty as to which other moral arrangements might be more suitable. It presents a conundrum whereby all action is possible, but no action is best.

Williams provides three pieces of evidence to support his case. These are that possible genuine alternatives exist, there remains the possibility of error, and things could have been otherwise. All in one way or another address the history of moral philosophy and moral practice, as well the creation of moral traditions.

Williams’ first point in favour of contingency is that there are conceivable and real alternatives to existing ethical practices. In part this is because we have knowledge of other societies and their ethical practices, conceptions, and thought. But one does not have to turn to the past to see different ethical conceptions. A cursory view of local societies provides evidence that there exists a plurality of possible alternative conceptions of human flourishing. The key insight, perhaps rather old hat at the moment, is that ethics cannot be separated from the cultures which create and/or use them. Ethics are in part products and projects of particular cultures. As with all cultural practices, they might make sense to the participants, but when judged from suitable distances appear somewhat perplexing. Even ethics has implicit judgements.

Further evidence comes from Eric Hobsbawm and Terence Ranger’s research. They find that many so called ‘traditions’ are recent inventions, and the invoking of traditional status is an exercise to gain legitimacy for that practice. The same seems to hold for ethical or moral ‘traditions.’ Thus, appeals to the continuity of a timeless tradition of universal reach appear suspect. Given this evidence, the conclusion is that all ethical

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282 Williams (2006a) *op. cit.* p148
283 Williams (2006a) *op. cit.* p129-130
systems have a local character, even those claiming otherwise. For this reason one cannot adopt a “patronising” attitude to past times and places, one cannot view them as “primitive” or “obsolete.”

Those in favour of universal truth in ethics could respond by saying that common notions underlie each of these local ethical practices. In spite then of apparent difference and manifestations, it is still conceivable to flesh out a set of ethical values that are endorsed by almost all ethical traditions. This claim has recently been made by Immanuel Wallerstein in his book *European Universalism* and by other common values proponents. James Rachels makes this point in *The Elements of Moral Philosophy*. He writes:

> Consider a culture in which people believe it is wrong to eat cows…such a society would appear to have values very different from our own. But does it? We have not yet asked why these people will not eat the cows. Suppose it is because they believe that after death the souls of humans inhabit the bodies of animals, especially cows, so that a cow may be someone’s grandmother. Now do we want to say that their values are different from ours? No; the difference lies elsewhere. The difference is our belief systems. We agree that we shouldn’t eat Grandma; we simply disagree about whether the cow is (or could be) Grandma.

However, whilst the idea of underlying convergence might appear seductive for its apparent inclusivity, Williams was doubtful. He held that such an idea was “not very likely to succeed,” because of “many and various forms of human excellence which will not all fit together into one harmonious whole.” Williams is correct in pointing out that value conflicts exist, and it is foolhardy to wish them away as some relativists and multiculturalists are prone to doing, or even suggest that enough dialogue and a particular discourse ethics can foster solidarity and an appreciation of mutually exclusive differences.

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285 Williams (1993) *op. cit.* p10
288 Ibid. p19
289 Williams (2006a) *op. cit.* p153
William’s second point is more direct. Given our present judgements of other ethical systems as suspect, how certain are we that our claims are more secure? The possibility for error means that all ethical claims must then be local in character. Besides, as Derek Parfit notes, moral philosophy is only a few thousand year old; provided that the human race does not destroy itself, another thousand years of inquiries into moral thought may yet produce some suitable, but as yet inconceivable moral insights.290

These are important insights, but ones that do not carry the day for contingency. Around us there are many different types of lives that we consider good and worthwhile pursuits. The belief that we all ought to focus on one type of monolithic ethical practice is akin to suggesting that we should all pursue a single profession. For obvious reasons this appears absurd. There can be a plurality of the good life. Hence, the contingency seems banal. This does not provide license to suggest that all pursuits are good and admirable. Instead, the friction between different moral systems seems to provide grounds to evaluate different conceptions of the good and assess what does indeed count as flourishing. This seems to provide support for the intuition that some ethical practices are preferable to others. As Cottingham writes:

> Just as varieties of plant may be judged failures, because of susceptibility to disease, or limited tolerance to variations in climate or soil, so there are ethical systems that do not satisfactorily serve the needs of their members, or which may even exclude whole groups within society form the chance of developing their talents properly.291

Apartheid South Africa provides a case where, however intellectually seductive the notion of ethical subjectivity or cultural relativism appears, by almost any criteria of authentic human flourishing, Apartheid does not to measure up. Quite simply, it was an ethical failure.

To suggest that ethics is a cultural product or cultural project does not licence us to think that claims to universal standing are crippled. Nor is it to suggest incommutability. Things and ideas have a history. This inescapable truism should not be

290 Parfit, in Rachels, (1986) *op. cit.* p151
a reason to undermine our confidence and commitment to a set of values and virtues. What ought to undermine our confidence and commitment is whether these values in fact do promote authentic human flourishing. My point here is that the values themselves count more than their historical nature. To address Williams directly, the authority of morality comes from its tendency to promote human flourishing, not by being ahistorical. By way of example, consider arguments indicting liberalism because it developed in Britain and the United States during the rise of industrial capitalism and imperialism. Here liberalism is purportedly the cloak of these forces; therefore it can be discredited automatically, without engaging its substantive points. But as sociologist Piotr Sztompka has asked:

Is anybody offended in Ecuador, Bangladesh or Taiwan by the fact that quantum physics was born in Copenhagen, Heidelberg or Berkeley, or that our human genome was reconstructed in California? Is anybody doubting that gravitation works in Africa in spite of the fact that it was discovered in Britain? Why should the universalism of science be replaced by extreme relativism in sociology?292

Sztompka’s point is that one cannot base evaluations of ideas by their origin, or upon correlative developments. Doing so would be to commit the genetic fallacy.293 In the same vein, one cannot automatically discount liberalism because it developed in Britain and the United States at a particular historical moment. That would be false attribution. Rather we must evaluate ideas on their merit and their suitability to the present context: Warrant trumps politics.

Besides, surely reflection affords the ability to separate out the ethics from the culture in which they reside. If this is the concern, the problem is not about contingency, but error. That mistakes are made should not be a reason to abandon commitments, but rather a reason to keep our own fallibility in mind. Together, the above points are not so

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293 Further, the present understandings and meaning of liberalism could well be different from what was understood at the time by that term. Drawing an equivalence between what are two different (albeit perhaps similar but still different) meanings. It is possible that over time a shift has occurred in scope, connotation, or become completely disconnected.
much about degrees of contingency and which values do or not fit together, but rather that one has a clearer understanding of the criteria to judge the success or failure of moral thought and practice.

The third point in Williams’s argument seeks to advance radical ethical subjectivity. He notes that it is not the fact of having a historical path which is troubling, but rather the knowledge that that historical path could so easily have been otherwise. This is what Williams means when he points to ultimate contingency and the impossibility of ultimate meaning. Surely, Williams asks, ultimate contingency must provide anxiety.

David Wiggins does not share this anxiety. He writes:

In philosophy as it is, there is a tendency for first-order morality to be conceived as a structured array of propositions or judgements. But [it is better] to conceive of such an ethic more dispositionally, as a nexus of distinctive sensibilities, cares, and concerns that are expressed in distinctive patterns of emotional and practical response.\textsuperscript{294}

Anxiety is not an issue for Wiggins because he conceives of morality as less of a propositional subject, and more of an encumbered one working through inherited culture and through which we develop sensitivities and sensibilities for practical appreciation and judgement. Here Williams’ anxiety is sidestepped by confining morality to responses, impressions, and moral intuitions to the local worlds we inhabit. But this is not a satisfactory response, for if your inherited culture had been different, you would have different responses, impression, moral intuitions and so on. So anxiety about the radical upbringing recurs with respect to these issues.

Wiggins and Williams both agree that ethics is less tied in to epistemology than one would normally think and that chasing after a pure epistemologically guided ethic is limited by ethics being encumbered. That is to say that they are intimately bound up with historical circumstances and descriptive understandings of the world.

For the sake of argument, let us grant this point that morals are in part encumbered rationalized intuitions tinted by culture. But even so, one still faces the problem of suggesting criteria to judge between the various moral intuitions and responses, given that selection based upon temperament is insufficient. Temperament subordinates morality to appetite as opposed to reason, and an appetite can make no long lasting commitment. It is unwise, even foolish perhaps, to be satisfied with morality simply being the responses or acts named as moral or sacred. Pretending to be satisfied with the closed and contingent universe seems like false bravado. For all of ethical subjectivity celebration of contingency, there is an aspect which appears self-defeating. Simon Critchley puts this succinctly:

[A]t the moment of saying ‘God is dead, therefore I am’, it is utterly unclear in what the ‘I am’ consists. It is a mere leaf blown by the wind, a vapour, an ember, a bubble. The moment of the ego’s assertion, in swelling up to fill a universe without God, is also the point at which shrinks to insignificance.295

As Heidegger notes, at the moment of declaring ‘I am’ facticity threatens meaning. ‘I am’ falls well short of ‘I Am that I Am.’ Under conditions where we become acutely aware of facticity, sticking to the will leads one to the absurd paradox.296 Other options for managing this problem include irony (pretending it does not matter), ethical quietism (a willed complacency in the face of facticity), and defiance (proudly maintaining that facticity does not matter.) But these are cognitive hoodwinks of one sort or another. One needs to show that contingency does not eviscerate meaning in general, and the meaning of justice in particular. The next section aims to show how this is possible by using good as an example.

296 The Absurd Paradox: “Given that the transcendental step is natural to us humans, can we avoid absurdity by refusing to take that step and remaining entirely within our sublunar lives? Well, we cannot refuse consciously, for to do that we would have to be aware of the viewpoint we were refusing to adopt. The only way to avoid the relevant self-consciousness would be either never to attain it or to forget it – neither of which can be achieved by the will.” Nagel, T., (1971) The Absurd, The Journal of Philosophy 68(20) p725
Fortitude, Wisdom, Responsibility, and Self-Affirmation

Notoriously Richard Rorty renounced the promise of the analytic method because of anxiety born from confronting radical contingency. In his introduction to *The Linguistic Turn*, he maintained that analytic attention would solve or dissolve philosophical problems “either by reforming language, or by understanding more about the language we presently use.” However, by the time he published *Philosophy and the Mirror of Nature*, Rorty had conceded that the contingent nature of language meant that no foundational claim or set of commitments, could stand untouched by radical contingency. He took the fragility of linguistic foundations to be globally applicable. Thus radical contingency implies that persons are bound by epistemic uncertainties of one kind or another.

The difficulty, as I have shown above, is that radical contingency can appear like an abyss, which offers little in the way of judgement beyond the local particular case at hand. Lacking a supreme principle, as Kant might say, there can be no clear course of right action. The prospect is that evaluation and judgement disintegrates. Rorty however, believes that such a stance is itself a poor move. Rather he wanted to acknowledge the presence of contingency while nevertheless reclaiming space for normative evaluation. For this reason, in *Contingency, Irony, and Solidarity*, he argues that we become liberal ironists; that is persons who acknowledge that convictions are contingent, but that contingency need not lessen our commitment to them, provided that these commitments are well justified.

Rorty, however, ran together a pragmatist epistemology with pragmatist politics. What I mean by this is that Rorty found his practical adequate foundations in the liberal tradition of Dewey and James. This is a form of liberalism that is metaphysical as well as deeply concerned with actual persons. The liberal-ironist then intended to defend the values, goods, and rights of liberal democracy in a project of a critical refinement as a way to shore it up as opposed to gleefully pulling us down.

In applying this blend to Rawls, Rorty determines that liberal societies create “new moralities.” What Rorty means is that liberalism offers a social imaginary of public life’s ultimate concern. This need not be a religious or a political theology in the strict
sense, but rather a rendering of metaphysical axioms that set humans in relation to their experience and condition, giving them due and proper attention. Liberalism *de se*, Rorty offers, seeks to create and propel an authentic political subject, and the self-image thereof, into the world, to fashion it in a particular way.

Competition and antagonism between different political philosophies rest, ultimately, on selections and beliefs in different metaphysical axioms. Logical and consistent extrapolation and derivation from these base commitments thus populates the content of different political philosophies, some which may be compatible with others on any given point, but some which might not be. While logic may help clarify and adjudicate between different sets of commitments, and rhetorical re-articulation may make people satisfied by certain outcomes, there is nevertheless conflict on the reason and justification for that outcome. Hence, there is little that appeals to objective truth or impartial reason can do to settle some disputes. There is a degree of metaphysical incommensurability.

So, while there are irreconcilable disputes over goods, practically for peace and order to be possible, it is better to manage these disputes goods, that it, more narrower discussions over the fragmentation of values as they are applied in different arenas. The plurality of the good way of life is something to note. It is possible. This allows people of different political beliefs to acknowledge one another’s public relevance. This is very much the same kinds of considerations Rawls gave in his turn towards political liberalism; the downplaying of metaphysical considerations and the turn towards more practical, tangible discussions.

It is in these kinds of circumstances of the intractable dilemma where persons have to rely upon their ability to make suitable judgements to either engage or disengage with particular problems, than with the consequences that stem from that decision. To aid in this decision persons can develop and use wisdom. Wisdom offers a way to cope with, and respond to, the actions and events we find ourselves involved in, and for which we could do little to prepare. From Robert Nozick’s perspective, wisdom is a more important virtue, than simply “knowing fundamental truths.” Whereas wisdom is the ability to apply these fundamental truths where relevant, to connect them “with the
guidance of life or with a perspective on its meaning,“ it also is “what you need to know in order to live well” Sometimes a person does not need to know fundamental truths to live well, or to be good. Similarly, wisdom is attentive to advancing and safeguarding well-being and human-flourishing. And in this respect, being wise attends to what is common to everyone’s life, what can help the general well-being “what is common to all of our lives about what (we judge) it is important for every human life to be concerned with.” For this reason wisdom needs to be lived and practiced. A person who knows this, but did not live would not be considered wise. So it is possession of a type of knowledge, and the demonstration of that knowledge by living a particular kind of life; by making decisions is particular kind of way. These types of knowledge and the lived life are mutually co-constitutive. It is the application of knowledge to life itself, what some Marxist might call praxis.

The prime benefit of wisdom is that it helps a person discern the importance in thought, word, and deed. “It is practical,” Nozick writes “it helps.” It helps humans “cope with the central problems and avoid the dangers in the predicaments(s) human beings find themselves in” by putting things into due proportion and due relation, that is, a due perspective with the things that people encounter in their everyday lives. Here it has to do with ranking and weight, attention and consequence. (For other components of wisdom, see Table 2).

1. Wisdom is practically attuned to what a person needs to know and understand to live a good life.
2. Because the good life can be diverse, it requires multiple types of knowledge and methods to ascertain knowledge.
3. Includes, but not limited to, knowing:

297 Nozick (1989) op. cit. p269
298 Nozick (1989) op. cit. p268
299 Nozick points out that “Wisdom’s special penchant for limits seems arbitrarily to favor conservatives over radicals,” but asks “why is contracting the domain of feasibility any wiser than expanding it.” The point is that one would be mistaken in presuming that cultivating this virtue leads to any one particular political affiliation. Nozick (1989) op. cit. p271
300 Nozick (1989) op. cit. p272-273
301 Nozick (1989) op. cit. p267
302 Nozick (1989) op. cit. p268
4. The feasibility of the kinds of goals to be persuaded;
5. What efficient and alternative means exist to reach goals;
6. What kinds of dangers threaten the achieving of these goals;
7. How to recognise and avoid or minimise these dangers;
8. What different types of human beings are like in their actions and motives (as this presents dangers and opportunities);
9. What is not possible or feasible to achieve (or avoid);
10. What is appropriate when;
11. When certain goals are sufficiently achieved;
12. What limitations are unavoidable and how to accept them;
13. How to improve oneself and one’s relationship with others or society;
14. When to take a long term view;
15. When to focus on immediate things;
16. The variety and obduracy of facts, institutions, and human nature;
17. Understanding what one’s real motives, intuitions, and biases are, and taking them into account;
18. How to cope and deal with the major tragedies and dilemmas of life;
19. And how wisdom relates to other virtues.
20. There also will be bits of negative wisdom: certain things are not important, other things not effective means, etc.

Table 2. Nozicks attributes of wisdom.
Note: adapted from Philosophical Meditations, p269

There are a number of benefits for favoring wisdom over fundamental truth. Firstly, as Nozick points out, a person can be more or less wise. Conversely fundamental truth is or is not. Confident approximations, when they do appear, are not truths, but the use of wisdom to know that certain kinds of value are suitable and workable.

Secondly, wisdom can be demarcated. There exist areas over which a person can be wise. For instance, I can be wise with regard to cricket, but foolish with regard to finances. In short, a person can have wisdom of one area but not another. Demarcation can accommodate radical contingency, for even if I were otherwise, there is still the possibility that I could possess wisdom of another kind. Wisdom then is not excessively stressed by radical contingency.

Thirdly, the value of wisdom is not predicated upon successful endeavours. “Wisdom does not guarantee success in achieving life’s important goals,” Nozick writes,
“just as a high probability does not guarantee truth.” If we combine our knowledge that some virtues, like generosity require good luck, and that some outcomes are subject to luck, then the value of wisdom is that it is not constrained by either. I can still be wise even if the outcome I intended did not arise due to bad luck. Further, being wise does not require good luck. It simply requires a reasonable attentiveness to the world and to life.

Each of these three positive aspects of wisdom can be seen in the character of Socrates. He was a wise man not because he practiced a kind of dialectical conceptual analysis, but because he wanted to honestly confront his limitations while nevertheless being attentive to items of general concern. And while one can chastise Socrates for being too dismissive of some of the practical goods and virtues, he nevertheless displayed remarkable wisdom in dealing with matters of justice, friendship and so on. We would say that Socrates was wiser in some areas than others, even if all his endeavours lacked success.

As wisdom may be applied to the problem of radical contingency, it does not offer a neat solution so much as it offers a way to manage how it affects a person’s projects and goals. While Table One provides a list of general attributes of wisdom, at the core is that a wise person knows the practical means to feasibly achieve a good life. In this respect, wisdom while susceptible to contingency, seeks to accommodate that contingency as practically as it can. If one follows the wisdom protocols, radical contingency need not derail personal projects, but it is something that needs to be

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303 Nozick (1989) op. cit. p270
304 For instance, Socrates showed that his interlocutors, if pressed, were sometime confused about the concepts that they used. He used this as ground to claim that they did not know what those concepts meant. However, as Nozick argues, a companion of Socrates could know what friendships were, maintain them, recognize a betrayal of one when they came across it, offer advice to someone about difficulties with friendship, all without being able to define correctly the general notion of friendship.

Being wise then is not about trotting out definitions when called upon, but by being able to use it, or to know aspects thereof. A wise person is not so much interested in names of objects, but rather how to use objects. Wisdom can be possessed without having to provide expound and explicate upon it. Nozick (1989) op. cit. p273
accommodated. And by accommodated, I mean, using the degree of wisdom available at any given time.

Regarding the interplay between luck, fortune, and the ability to be virtuous, there are few better accounts than that provided than by Martha Nussbaum in her magnificent book, The Fragility of Goodness. While Terence Irwin and Paul Woodruff’s respective reviews do demonstrate some problems with the use of evidence and need for argumentative housekeeping, her book nevertheless, to quote Woodruff is “ambitious in its scope and daring in its treatment of texts.” This is because Nussbaum identifies and clarifies a disarmingly simple but necessary question of whether the good should be resilient and immune to unfortunate circumstances, or whether it is permissible, acceptable even, that the good is vulnerable to unforeseen circumstances. In so far that it is relevant, this relates back to the question of whether in spite of radically contingency the good is still a viable goal to pursue. That is, an unachievable aspiration.

To illustrate her investigation, Nussbaum turned to the intellectual traditions in classical Greek thought. She presents Plato and Aristotle as taking two opposing stances on conduct in the face of luck and fortune. Whereas the tragic style exemplified by the pre-SOCRatics such as EURIPIDES and SOPHOCLES, AESCHYLUS and HOMER, gave dramatic form to the vulnerability to, and conflict over, human goodness, is the good vulnerable to exposure to contingent external control; Nussbaum presents Plato as holding that the good, while not being immune to luck, can be safeguarded from contingencies by bunkering down in knowledge, truth, and certainty. Plato’s good does not turn on, or succumb to contingencies, but rather is an internal property of the person themselves. This is consistent with Plato’s wider philosophy; recall that Platonic forms

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305 Irwin is exacting, precise, and pedantic in his empirical and argumentative criticisms while Woodruff’s admits whiles he often found [himself] at odds with this or that reading of a classical text, only to see that Nussbaum’s reading took its power from her unified understanding of the material, and from the ethical theory for which she selected it. The book is always thought-provoking and sometimes brilliant; and it is admirable that in celebrating the ethics of risk-taking Nussbaum has the courage of her convictions. She has, as she believes one ought, made her-self vulnerable. (p205)

are free of contingent relations. Aristotle, she presents as being much more open to the practicalities of life, holding that the involvement of contingencies need not be reason to scuttle the good.\textsuperscript{306} In this sense Aristotle is less demanding, and more prepared to accommodate actual human conduct and the lived experience.

These are two radically dissimilar approaches to moral conduct, and split over the role of perfectionism. Woodruff neatly sums this difference:

whereas Nussbaum’s Plato sees human limitations as a curse to be overcome, Nussbaum’s Aristotle sees them as a challenge and an opportunity for specifically human virtues that are not available to perfect beings passim.

An additional difference is that “Plato thinks that virtue and happiness depend on the control of the passions, Aristotle on education and the proper use of passion.”\textsuperscript{307} In this fashion there are different conceptions and expectations, purposes and aspirations over the practice of philosophy itself.

Irrespective of whether Plato or Aristotle did take the positions Nussbaum attributes to them is beside the point. The question whether the good should be immune to bad luck, ill fortune, or unforeseeable conflicts between values, virtues goals, or projects that are individually compelling, but jointly inconsistent in a political system. Furthermore, do we lament these value conflicts, and seek to reconcile them: Or do we accept them as being always already irreconcilable aspects of the human condition, the gap between actuality and potentiality? These are relevant sorts of conflicts that stem from our projects and commitments. Moreover there is a degree of difficulty in trying to capture, attend to, represent, or reconcile them through the use of reason alone. At times the concurrent values clash and we cannot satisfy our desires and motives to reconcile them. We can add that this is our best technique for doing our best to find an impartial, nonperspectival, and nonanthropocentric truth of the matter, an epistemic

\textsuperscript{306} For our purposes, it is not important whether Nussbaum’s Plato and Aristotle are congruent with their actual lived Plato and Aristotle; clearly as Irwin and Woodruff point out, there are discontinuities. Rather we should treat Nussbaum’s Plato and Aristotle as descriptions of two distinct arguments over the nature of goodness.

standing free of inter-subjective agreement, so matter how strong is reason enough to know truth.

This brings us to the supposed value of relativity, that values can be reconciled by relativity. In my view this is mistake. As an objective truth of the matter, the non-anthropocentric view does not deny relativity. For example, what is good and suitable for one person may not be for another. I might be allergic to certain kinds of fruit, for instance. Therefore, eating these kinds of fruits would not be good for me. These goods are contingent upon the nature of the person, including their imperfections and natural variation. But determining what is good and suitable for a person requires knowing their nature, which is not relative.

The western philosophical tradition seems to oscillate between hyperbolic perfectionist moral ideals which imperfect humans can only approximate and less stringent requirements that make allowances for human limitations. One could be despondent or disappointed in not being able to meet these ideals, or one could be less hyperbolic. One could also see these limitations as merely recognising that humans are imperfect creatures with limitations of all sorts, and that in demanding a perfectionist account, one neglects our fundamental human conditions. Here we can clearly see that in spite of the contingent elements of our human conduct, and the pending dangers of luck, contingency and conflict, there is the possibility that contingency does not eviscerate the good. That is to say that the good remains possible in spite of there being differences; but also that these differences matter, because they affect our outlook in various ways.

As a rider to the above point, one should be aware that luck and contingency can undermine goodness in similar ways. For example, Aristotle points out that the virtue of being generous depends upon you having the means to be generous. There is a sense in which both good and bad luck feature into the ethical life. I may be on the receiving end of bad luck that inhibits me from pursuing certain kinds of goods, or even from becoming good. Conversely, my cheery disposition could be soured by bad luck and I could become bitter. In short, I can only demonstrate some acts of virtue if I happen to be in the right circumstances, many of these circumstances themselves not being fully of
my own making. In this case, justice as a virtue depends upon there being the means to achieve a just set of relations. The conclusion seems to be that virtues do not reflect intention as much as they do opportunity. Virtues are also subject to radical contingency, and hence the good of virtue is a by-product of circumstance. To be clear, this is not to say that there is no value in recognising virtues as virtues even if the resources required to cultivate virtues are distributed by brute luck: A kind and benevolent person is still kind and benevolent, even if she has those characters traits because she was lucky enough to be raised by a loving middle-class family in a prosperous country. Rather, the point is because virtues are too susceptible to radical contingency they cannot anchor a theory of justice.

If so much contingency and luck are involved in achieving the good, it raises the question as to how the just sets of relations that constitute the good are to be achieved. It is well known that Plato sought to head off the fallibility, and possible error of, subjectively defined goods by appealing to impartial experts, or to non-contingent independent objective criteria of the good. But this is too stringent. Aristotle, on the other hand, offers a more reasonable guide to our attempts to pursue goods. His conception of justice is predicated upon the use of practical reasoning, which is, by nature, a human task, and hence allows itself to be vulnerable to contingencies.

It is unreasonable to think that a person might not be absolutely happy with such a set of circumstances; unhappy that they could not advance the good, or bulwark the good; unhappy that they could not do more. But such solace is not available at times.

The most difficult course of action in the moral conflict is where a person actively chooses between evils, or efforts to ameliorate evils while knowing that their integrity will suffer. The person knows from the outset that he or she will be accused of not demonstrating adequate goodness; where they deliberately put themselves at the mercy of bad luck, but without being able to attribute all responsibility to bad luck and so they cannot cast off the shame of these actions. In circumstances like this, there is little opportunity to do good, to be good. Instead, what good there is to be done is in the effort taken to limit harm. These are intractable dilemmas.
Intractable dilemmas are particularly acute when judgement is required, but is constrained by a looming time horizon and where there is incomplete information. Here there seems little space to appeal and use propositional knowledge. Instead people come to rely upon their intuitions and best judgement. But they also know that they will carry the consequences of these actions. While there might be expertise and knowledge available, often these are in short supply. Instead one has to work with what one has.

Harry Frankfurt has had a deep influence on thinking about dilemmas and responsibility. One of his key contributions was to highlight the distinction that some conditions of responsibility are conditions on the actual sequence of causes leading up to an action. This is known as the “regression requirement.” It means that to be responsible for something, you must be responsible for its causes. Applied recursively, regression requires that responsibility reach back through the actual sequences of causes. Other conditions for responsibility instead concern what might have happened in other possible sequences of events, or alternative sequences. This is known as the “ability to do otherwise requirement.” Reasoning, selecting and acting in and between various courses of actions determine the load of responsibility a person would bear. Some courses of action have a heavier load of responsibility. Others do not. If you could not do otherwise then a level of coercion has forced your available course of actions, thereby diminishing your ability to reason and select. Applied in a conventional compatibilist framework, this requirement says that you could have the ability to do otherwise if you had been otherwise.

Frankfurt’s essential insight was that responsibility turns on the character of the actual sequences of events leading up to an act, not on the possibility of alternative sequences. This opens up the possibility that determinism may be compatible with responsibility even if it is incompatible with the ability to do otherwise. Let us now turn to Frankfurt’s well known example to illustrate:

Black wants Jones to perform a certain action, and is prepared to go to considerable lengths to ensure this. But Black also wants to avoid showing his hand unnecessarily. Black waits until Jones is about to make up his mind and does nothing unless Black, who is an excellent judge of such things, judges that Jones is not going to do what Black wants him to do. Only if Black so judges does he intervene and take effective steps to ensure that Jones decides to do, and indeed does, what Black wants him
to do. Whatever conditions are needed for it to be the case that Jones cannot do otherwise, Black makes it the case that those conditions prevail. But as Black has never shown his hand, Jones for reasons of his own, decides to do and does the very thing Black wants him to do.

Frankfurt claims that in this case the fact that Jones could not have done otherwise is irrelevant to our judgement of the degree of responsibility Jones carries for what he does. What matters is the actual sequence of events leading to his act; not that possible alternative sequences exist, or that there are possible other outcomes. In the Black-Jones case, the outcome would have occurred irrespective, but the key distinction is whether Jones for reasons of his own pursues a course of action, or whether Black, for reasons of his own was able to create the circumstance which caused Jones to act in a certain way. What matters for judgements about responsibility is the reasons for acting and how they were arrived at, not the outcome. Frankfurt maintains that it is possible to make judgements about responsibility even if no other course of action was possible.

Lastly, let us return to Bernard Williams. Towards the end of his life, in his book *Philosophy as a Humanistic Discipline*, Williams thought we might be able to ‘make do’, that we could resolve contingency by merely saying that we have histories that could have been otherwise, but nevertheless we are encumbered in this one and thus inherit what might be called certain intuitions, but as these might be in error, and we must want to be sensitive to that fact, reflective and willing to act when we find ourselves in error.\(^{308}\)

At other times Williams suggested that we should be confident in the moral systems we have developed.\(^{309}\) I agree with these points. One needs to be sober in confronting things as they merely are, and to respond with a degree of confidence. But, I do not think that these are enough. For one, I would want confidence to stem from epistemological justification as opposed to tradition or convention. But beyond this, one needs to consider the fragility of our existing moral thought and human flourishing. It is quite easy for the conditions promoting human flourishing to be usurped. To turn to Cottingham again, he writes that “[t]he world is in no way hospitable to our activities or aspirations,


\[^{309}\] Williams (2006a) *op. cit.* p169
as it were, temporality and purely by accident.” There is no guarantee of equality or liberty. These things require constant vigilance in the face of such indifference. Knowing this must not undermine our confidence in pursuing ethical principles, prescriptions and allegiances, but rather ensure that one seek to purposefully promote and sustain human flourishing. Such efforts speak to the value we place on ourselves in the wake of radical contingency.

At the heart of William’s iconoclastic project was a demand that morality, like knowledge, needs to be adequately justified. One cannot be satisfied with a morality being simply the responses or acts named as moral or scared. But if we go too far down the road of radical subjectivity we end up subordinating morality to the person’s conception of what is the right thing to do. This can quite easily become, what is the right thing to do now. And while this might be a call in favour of the application of individual judgements to particular circumstances, I think it can quite easily be portrayed as shifting values commitments. What commitments does a person carry if they are so easily discarded by taste, fashion and invoking agility of judgement? It seems that principles are of little use if, on focusing on decisions, one forgets that there are reasons motivating the principles we previously decided to develop.

**Moral Luck**

Modern theories of justice aim to some weak naturalism. At a general level, naturalism involves two intuitions, ontological and methodological. As David Papineau writes,

The ontological component is concerned with the contents of reality, asserting that reality has no place for ‘supernatural’ or other ‘spooky’ kinds of entity. By contrast, the methodological component is concerned with the ways of investigating reality, and claims some kind of general authority for the scientific method.\(^{311}\)

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\(^{310}\) Cottingham (2008) op. cit. p13

\(^{311}\) Papineau (2009) op. cit.
While theorists of justice may hesitate to embrace the methodological intuition, they are clearly interested in the ontological intuition. This is because ontological naturalism makes a causal difference, the stakes of which are moral agency and hence assessments over praiseworthiness and blameworthiness. By implication theories of justice are generally interested in evaluating actions that are under the control, or could be under the control of actors. Things that fall outside a person’s control are beyond their purview. It seems nonsensical to demand that justice legislate against gravity and other like things. One can only legislate with them in mind. That said, clearly justice is influenced by happenstance. This is most apparent when one examines the case of moral luck.

The problem of moral luck has been succinctly put by Michael Clark, the editor of *Analysis*. He explains:

> It is irrational to praise or blame people for what is not wholly within their control: ‘ought implies can’. But since our actions stem from our characters, circumstances and causal factors beyond our control, and their outcome is often unpredictable, luck appears to play a large part in determining our character and conduct, both of which we are morally accountable.

So we are morally responsible for what we can’t properly be held morally responsible for.\(^{312}\)

There is something unfair about a judgement that holds people accountable for things they cannot control; when differences in luck are detached from moral agency. Such a view was held as a moral principle by Kant. In the *Groundwork of the Metaphysics of Morals*, he wrote that,

> The good will is not good because of what it effects or accomplishes or because of its adequacy to achieve some proposed end; it is good only because of its willing, i.e., it is good of itself. And, regarded for itself, it is to be esteemed incomparably higher than anything which could be

\(^{312}\) Clark, M., (2007) *Paradoxes from A to Z*, London: Routledge, p122. Thomas Nagel describes the problem as “Where a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgement, it can be called moral luck.” (Nagel, 1979, 25).
brought about by it in favor of any inclination or even of the sum total of all inclinations. Even if it should happen that, by a particularly unfortunate fate or by the niggardly provision of a step motherly nature, this will be wholly lacking in power to accomplish its purpose, and if even the greatest effort should not avail it to achieve anything of its end, and if there remained only the good will (not as a mere wish but as the summoning of all the means in our power), it would sparkle like a jewel in its own right, as something that had its full worth in itself. Usefulness or fruitlessness can neither diminish nor augment this worth.\(^{313}\)

This quote—“sparkle like a jewel in its own right”—illustrates the argument that morality should be immune to luck.

Bernard Williams describes this as “basic to our ideas of morality.”\(^{314}\) However, when one takes into account radical contingency, such a principle becomes difficult to maintain. As argued above, there is a degree to which radical contingency is involved in the determination of moral judgements. Given that facts, characters and actions are constrained, and that admirable or vicious traits are a result of genetic inheritance, upbringing, and the local culture in which one is raised: for instance, refusing to kill another person in one culture might be considered admirable, whereas in another, seen as personal weakness. But each person did not choose to be brought up in each culture, and there is only a certain point at which they may gain the ability to choose another life course, and even then, some of their basic traits, bodies and the like are unescapably encumbered by that experience. The self exists, and it is difficult to suggest that it is infinitely pliable or can be radically overhauled as some radical constructivists chant. As Clark notes, “Our choices are constrained by causal factors not under our control, and the outcome of our actions is not always predictable.”\(^{315}\)

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\(^{315}\) Clark (2007) op. cit.
Although addressed by other writers such as by Joel Feinberg,\textsuperscript{316} the discussion of this problem is often associated with Bernard Williams and Thomas Nagel respectfully.\textsuperscript{317} Though they emphasis different features for different reasons—Williams seeking to undermine the Kantian conception of morality, while Nagel wants to demonstrate the trap between intuitions and facts—both argue that we should bite the bullet and acknowledge that luck is involved in moral determinations, and that it is practically impossible to base moral judgement solely upon pure rationality.

The difficulty is that people are often quite aware that luck plays a role in life, that one person’s success can be as much influenced by luck as another person’s misfortune. But they tend to hold, like Kant, that luck should not matter to moral worth; that morality should be immune to luck. Luck should not make one a better person. A Kantian conception provides comfort, as Williams wrote, this version of morality offers “solace to a sense of the world’s unfairness.”\textsuperscript{318} But, if this version were mistaken, and luck does matter, then that solace would evaporate. On these grounds Williams argued that we should not presuppose an obligatory general ‘right way to do things,’ but rather that the ‘right way’ must take into consideration the complexity of life itself.

To support his argument, Williams introduces his Gauguin thought experiment.\textsuperscript{319} Gauguin is a painter with a family, but aspires to become a great painter. To fulfill his ambition, Gauguin believes that he must abandon his family. Gaugin does so, leaving them in poverty, and moves to French Polynesia where he becomes successful. Williams asks, how are we to determine if Gauguin’s decision is sufficiently justified? As there is no way to know in advance if Gauguin will be a great painter, Williams suggests


\textsuperscript{319} Drawing upon the life of painter Paul Gauguin (1848–1903).
that the evaluation of Gauguin’s decision will depend on the eventual outcome of that decision: “the only thing that will justify his choice will be success itself.” Nonetheless, as Williams’s notes, Gauguin’s success depends in part on luck, so our assessment of Gauguin’s actions, and the rational justification of them rest on luck. Williams believes that our moral assessments of whether Gauguin is a complete scoundrel, or a a genius who made difficult decisions for his art, is undoubtedly coloured by ‘how things turned out,’ that is to say the particular sequence of actions involved in the case.

For Williams then, there is a key distinction to be made between extrinsic and intrinsic luck. In this distinction, extrinsic luck comes about due to factors outside of elements of the project, whereas intrinsic luck comes about due to factors inside elements of the project. For example, Gauguin is responsible for intrinsic luck because he initiates the action. If he becomes a bad painter because of his move to the South Sea Island, then this is a case of bad intrinsic luck, because he did not know his trip would have this outcome. The contrary also holds. Gauguin is thus partially responsible for the resultant luck, good or bad, because he initiated the sequence in which bad luck could become involved; in this case Gauguin will be justified in his belief. Extrinsic luck in contrast is an event that happens to the sequence in which Gauguin is involved but for which he could not have foreseen. For example, the ship that was to take him to the Island sunk before it reached Gauguin. Here Gauguin is not involved in creating circumstances where luck could be involved in assisting or diminishing his project.

While portions of Williams’ arguments are certainly insightful, his overall discussion contains several errors. Even if we were to concede that the practice of rational and moral justification rests on post-hoc revision and retrospection, which allows luck to enter the scene, and conceeding that justification is subject to epistemic luck, what matters when assessing actions is what information was available to people at the time of making a decision, not what they learned after the fact, or on ‘how things turned

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Our basic assessment of Gauguin would be that irrespective of whether his project succeeded because of luck, internal or external, it was at the expense of his family. And it would be foolhardy to claim that artistic success and proper conduct cannot be reconciled. Besides, even if artistic success is something someone cannot control, conduct is something, that to a greater or lesser degree, a person can control.

Nagel’s version of the problem emphasises a different set of concerns. Like Williams he locates the problem as having to do with what could be called practical reasoning, but he casts it as conflict between moral practice and moral intuition. To expand, there is a strong intuition that morality should be based on what we can be responsible for. Nagel calls this the “responsibility assumption,” where “people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control.” But the actual practice of moral judgement often does not meet this basic criterion insofar that people are often judged based on things that are not within their control.

For Nagel, the problem is not that we make mistakes in moral judgements, but rather that luck influences our judgements, and hence poses a fundamental problem for the conception of moral responsibility. To support this case, Nagel presents us with the distinction between a driver who deliberately passes through a red traffic light and narrowly misses a pedestrian, and a driver who deliberately passes through a red traffic light but hits a pedestrian. Both drivers did the same thing, are responsible for the same set of sequences, but nonetheless they are judged differently. The first driver is reckless while the second driver is guilty of manslaughter. Certainly the second driver is blamed more. Nagel contends that there is “a morally significant difference” even though the first driver is fortunate whilst the second driver unfortunate. It seems that luck—was the pedestrian a foot to the left or the right—makes a moral difference. These two

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321 For matters of brevity and focus I am not going to attend to other aspects of Williams’s argument, such as his derivative argument that due to luck, morality cannot be the supreme value.


323 Ibid. p58.
judgements speak to the conflict between moral practice and moral intuition, the ideal that luck ought not to matter, or to use Nagel’s term, between the responsibility assumption and outcome, the intuition that moral judgements should be certain and non-accidental. Given the circumstance, there is no evidence that the unfortunate driver is a worse person than the fortunate driver; the unfortunate driver is no more deserving of his blame than the fortunate driver. Nor is it possible to hold the fortunate driver accountable for death of the pedestrian, as no death occurred, nevertheless the unfortunate driver is held responsible by the wider public.

In Nagel’s version, the problem becomes one of where a person is judged—blamed or praised—for things that are beyond his or her control. But, it is a mistake about enrolling lack of control and luck, of which I will fully explicate in the section that follows. In the meantime, I think it is fair to say that Nagel is more concerned with blame than responsibility.\(^{324}\)

Nagel’s worry is not that we make mistakes—for we could admit and rectify mistakes—but rather that the human condition is one in which this type of mistake-making is a given; further, rectification is difficult because they are not under our rational control.\(^{325}\) Additionally, current notions of moral judgements are too simplistic given a finer grain account of how things are. In light of these things, Nagel submits that there is “no solution.”\(^{326}\)

\(^{324}\) Concerning moral assessments, Nagel points to four kinds of luck. These are:

- **Resultant Luck** refers to how things turn out, particularly applicable to decisions where the outcome is unknown. Depending on how things turn out, a person might be publically considered praiseworthy or blameworthy.
- **Circumstantial Luck** refers to “the kind of problems and situations one faces,” which are beyond a person’s power to control.
- **Causal Luck** refers to “luck in how one is determined by antecedent circumstances.” To this extent that things are involved in free will and determining. Although partially resolved if one takes a compatibilist position, it nevertheless does open to us the question of luck within intentional courses of action.
- **Constitutive Luck** refers to the luck that is involved in a person having particular “inclinations, capacities and temperament.”

\(^{325}\) Nagel (1993) *op. cit.* p59

\(^{326}\) *Ibid.* p68
At one level the problem arises because of social psychological lapses, that if we acted in a more rational manner, there would be no problem because we would discount it. But this is reckless ethical ego subjective consequentialism i.e. if we are careless and nothing happens, we seem to take a 'no harm no foul' approach, whereas if something bad did result from event, our responses are fuelled by anger and distress. Adopting this ethical stance concedes that it is right to judge based upon luck. But one should not hold persons accountable because of chance.

I see six possible responses: First, a person can, like Nagel, despair at the problem and lose confidence in the validity of moral judgement. Second, a person can maintain the responsibility assumption, but deny that these actions are outside her control. Another option would be to reject the responsibility assumption, modify the conditions for judgements of responsibility, or entirely reject responsibility-based accounts. A fourth option would be to deny the intuition that luck makes a moral difference. Here one could argue that we are mistaken in our view of morality. A fifth response a person can deny the fact: cases of moral luck do not occur. Rather than being facts of moral luck, these are rather facts of epistemic luck. In other words, luck places us in a better or worse position to know and assess a person’s moral standing. Lastly, one could reform the conditions for the judgement of responsibility to account for a partial admittance of luck.

I think the first option concedes more ground than necessary. The second option fails to appreciate that there are actions outside a person’s control. In the third option revoking the responsibility assumption equally does not match the human condition, because for all intents and purposes the human condition cannot exist without the conception of free will. In response to the fourth option, while luck should not make a moral difference, clearly it does. If there is a mistake, it is not acknowledging the ‘ought implies can’ principle: we cannot help but be mistaken, therefore we are not obligated to fix it.

A better response is to combine the two last options. Here one would acknowledge that much of what we assert as luck is not pure luck but rather a conventionally named reference resulting from an incomplete understanding of actions.
Clarifying luck would do much to clarify what actions a person is or is not responsible for. Such an approach is feasible. In practical legal terms this would require, for example, that attempted murder and actual murder would receive the same due punishment. Irrespective of outcome luck, the two intents are weighted equally. In the example of the two drivers, because there is no moral difference between them, the drivers should be held responsible for their intents, not the particular outcomes. Put another way, the drivers deserve to be held responsible for what the actions they can intentionally control. This brings us to a discussion of epistemic uncertainty.

**Problems of Epistemic Uncertainty**

I want to re-emphasize that despite close conceptual connections luck is not equivalent to accident or chance. Take for instance the case of the lottery. There are certainly odds that you might win, but if you do win, it would be incorrect to say that it is an accident that you did win. Low probabilistic events (such as a lottery win) nevertheless unfold according to a set of initial conditions. As for chance, consider the case of a landslide. There is a chance that the mountain had a landslide, but without anyone being affected, we would hardly describe this event as being lucky or unlucky. If anything, the key distinction for luck is that luck applies to an agent; minimally it is class of event in which an agent is involved. 

Following this logic, I propose a certain class of actions as illustrative of hard luck. One method to identify this class of action is to use possible worlds and assess the degree to which outcomes could have been otherwise. To make this case, I selectively draw upon some of David Lewis and Duncan Pritchard’s work. By possible worlds, I mean “alternative worlds in terms of which one may think of possibility.”

Expanding upon this, Lewis thinks a world is “a maximal mereological sum of spatio-temporally interrelated parts.”

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327 The Cambridge Encyclopaedia of Philosophy check reference
Upfront, I am agnostic to whether Lewis’ modal realism necessitates the belief of *cosmoi*, that is the infinite plurality of worlds causally and spatiotemporally isolated from one another. The same holds for the ontological contents of these many worlds. This also means I am setting aside the question of whether knowledge requires causal interaction (for if it does, then how can it be possible to know about something causally isolated from us?) The same is true with the astonishing cost of believing that these worlds exist. My interest is rather to apply the methods used to think about these worlds and their contents to highlight the extent and scope of hard luck within our world. In that respect I think possible worlds as an abstraction provides a “paradise for philosophers,” but does not have much utility beyond this.329

I will return to Lewis’ work in moment. Presently I introduce Pritchard’s conception of luck. He describes a lottery win. Intuitively the event seems lucky, but one must ask, ‘what precisely about this event makes it lucky?’ Pritchard says

roughly, this is an event which obtains in the actual world but which does not obtain in a wide class of near-by possible worlds where the relevant initial conditions for this event are the same as in the actual world (where I continue to buy a lottery ticket, the lottery remains free and fair and with long odds, and so forth). Indeed, in most near-by possible worlds that meet this description, I am right now tearing up my lottery ticket in disgust.330

Pritchard’s method is to contrast the outcome of events that have occurred to those that would most likely have occurred in near-by possible worlds. A method of this sort is likely be dismissed by luck sceptics as excessively abstract and vague, although I will come to address those criticisms in a moment.

As a way to bring some life to the point Prichard provides the example of a skilled archer “in good environmental conditions and in tip-top mental and physical condition.”331 Let us call the archer, Bill. Bill would likely hit the target in the actual world, and would most likely hit the target in almost all the near-by possible worlds in which the

329 Ibid
331 Ibid. p279
initial conditions were similar. Thus the outcome cannot be considered to be a result of pure luck, but rather one of skill.

We can contrast Bill to Ada, who has never held a bow before let alone received archery training. Given the same conditions as before, it is unlikely that she would hit the target in the actual world and in most near-by possible worlds. But if she did happen to hit the target, it is likely that we would attribute this outcome to good luck.332

For Pritchard the key lies in the relevant initial conditions and the extent of deviation of outcome, and the singularity of outcome of the event in question. A lucky event (LE) according to this formulation is:

(LE) An event is lucky iff it obtains in the actual world but does not obtain in a wide class of nearby possible worlds in which the relevant initial conditions for that event are the same as in the actual world.333

While this definition is helpful, but this definition does not really add much value to more pedestrian definitions. There are also things that Pritchard does not sufficiently specify. For instance there are questions regarding how nearby worlds happen to be, to what degree, and in what respect, do they differ. Additionally he has not attended to the

332 Conversely, if the unskilled archer lost control of bow and fired it into the air with such an arc that it managed to clear the range and hit someone, we would likely say that such a bad outcomes would not have occurred in near-by possible worlds, so we would say that this is a case of bad luck.

333 Pritchard (2007) op. cit. p280

Let us now attend to the various elements of this Pritchard’s definition of a lucky event that may be repurposed to help us understand luck.

Actual world: The world we currently occupy is the actual world.

Possible worlds: The Cambridge Encyclopaedia of Philosophy defines it as “alternative worlds in terms of which one may think of possibility.” Here an event’s actual outcome is contrasted with the range of possible outcomes that could have occurred, irrespective of their probability. This account moves luck away from some statistical accounting and rather to the philosophical account of yet to be realised world states. Actual sequence versus possible sequences.

Near-by possible worlds: we have to account for circumstance much like ours, but ones that are not ours. In other words, other possible world-states that could have been realised.

Most: here we have the condition that there are near-by possible worlds in which the outcome – the unskilled archer hitting the target – might have also occurred. But by no means does the possibility of similar outcome diminish that the involvement of luck. This points to luck not being a singular variation, but opens the possibility that the outcome is not unique. Luck is not a unique event.
relationship between intent and luck. To make this clearer, let us reconsider the case of Ada, the unskilled archer. She had the intent to hit the target, but not necessarily the skill to do so. Suppose that Ada comes to the archery range. She has never fired a bow before. Moreover the conditions are less than ideal. Aiming at the target, she hits the bull’s-eye on her first attempt. Then again, on her second, and third, fourth, and so on until she has 10 bull’s-eyes in a row. We would most likely consider this lucky because it is an outcome that would most likely not have occurred in most other near-by possible worlds. This is an act of luck in which intent is present, though skill was not. The point is that having intentions does not exclude the possibility of luck.

Now let us reconsider Ada when she intentionally aims wide of the ‘target’, intentional seeking to miss the ‘target’ on all ten shots. (So the ‘target’ is not the target.) But lacking the skill to control the bow, she inadvertently hits the ‘target’ on multiple occasions. Without being technically slavish, because Ada does not have the skill to fire the bow with the precision that Bill can, one would expect her arrows to hit all over the place. In other near-by worlds, it is likely too that the arrows would be all over the place irrespective of whether the ‘target’ was or was not the target. To contrast these two versions, we have a lucky case of making good on intention despite the odds indicating that this outcome is unlikely. In the second case, the failure to make good is generally expected and likely despite the intentions otherwise.

The issue of intention raises the spectre of desert. Desert theorists have occasionally downplayed the extent to which contingent features scuttles desert by proposing that desert makers are relations between outcomes and internal features of persons or objects and that one need not assume anything about what caused those features. The classic tripartite desert base proposed by Joel Feinberg in *Doing & Deserving* is “P deserves X by virtue of feature F.” For example, he suggests: “Art objects deserve admiration; problems deserve careful consideration; bills of legislation deserve to be passed.” These claims suggest nothing about the history of those features. These proponents question why we say history matters for persons and not for objects. Nothing has changed, they say, only the stakes. Here desert comes through by

appreciating what those internal features are, irrespective of how they came about, and not from evidence that these features could have been otherwise.

Some desert theorists take this a step forward, claiming that the classic tripartite base does not include a temporal qualification. So they do not see a problem with providing Ada with an archery scholarship instead of Bill, because she shows more promise than Bill, and may one day be better than him. As much as this judgement is questionable, it is kind of practical judgement people make daily.

By contrast, in my view there is something odd about the aforementioned argument. It forgets that things deserve acknowledgement precisely because we know their history, intent, and purpose. In other words, we know their social role. Naïve desert theory, as I have presented above, reifies things and persons, disembedding them from their social history and relationships, and thus hampering the kinds of desert goals for which they nominally advocate. Moreover, as I discussed at the beginning of this chapter, desert is extremely vulnerable to radical contingency.

I maintain that hard luck differs from the horizon of expectation that arises when one introduces perception of luck into the mix. To circumvent this particular issue, it is useful to make a distinction between agent relative reasons and agent neutral reasons. Agent relative reasons turn on perception, detection, and the comprehensiveness which is the ability to give reasons for things that are known, but which itself is based upon the capacity and capability to give and take reasons, and to weigh evidence. Agent neutral reasons have none of these features.

What I mean by this can roughly be conveyed using John Searle’s distinction between “features of reality” which are observer independent and those that are observer dependent.\textsuperscript{335} For Searle, “[a] rough test for whether a feature is observer-independent is whether it could have existed if there had never been any conscious agents in the world.”\textsuperscript{336} Therefore the existence of the observer dependent feature is

\textsuperscript{335} Searle (2007) \textit{op. cit.} p82
\textsuperscript{336} \textit{Ibid.} p82
that the attitudes, thoughts and intentions are of active conscious agents. Examples of this kind of feature of reality include marriage and language. Conversely observer independent features include photosynthesis and cell division. Social worlds consist of both features. The question is to what extent is luck an appropriately observer dependent consequence of observer independent sequences.

Pritchard would have us believe that luck is an observer independent feature of reality. That is to say that the observer's opinions of the matter do little to influence the assessments of the degree of luck involved in a particular outcome. Yet, we need to recognise, at least at the common-sense level, that this notion appears counter-intuitive. Surely, many people would say that luck is observer dependent in so far that we subjectively constitute luck through the application of language to make an event intelligible. I think Pritchard is correct on this point, and that a good portion of the usage of luck is in error.

If this reasoning is correct, then luck has little to do with intent nor usage. This poses a problem for accounts of justice insofar that we keep intent at the forefront of our minds. At issue here is whether one can ascertain the totality of knowledge about the case and relevant facts about the local circumstances so as to be in a position to assess what is, or is not, luck. This is to say that regardless of our intent and regardless of the degree of awareness that the events in question could have turned out differently, luck ultimately rests upon probabilistic causal processes.

Let us now tie these strands together. First, it seems that some actual sequences are only possible if hard luck is involved. Second, one can identify a whether causal chains, sequences, and outcomes is lucky by assessing whether it probably could have occurred in a near-by possible world. Third, I have suggested that identifying a lucky outcome does not exclude the possibility of intent. So luck need not absolutely scuttle desert claims, but taking radical contingency into account everyone is lucky to some degree and in different ways. This is worth keeping at the forefront of our political mind when egalitarians assess how a person's luck has contributed to their current circumstances, and then seek to ameliorate the burdens of bad hard luck and redistribute the processes of good hard luck.
The virtue of this understanding of hard luck is that nods towards the complex circumstances in which we find ourselves, attempts to aid human flourishing by respecting that persons have reasons for pursuing their projects, and acknowledges the existence of persons who are accountable for the choices they make, but also those choices are make under conditions not of their choosing.

One potential objection could be to acknowledge that outcomes things could have been different, but to maintain that this should not detract from the possibility of desert. For instance, a runner in a race could have lost, but they did not. Because they could have lost, does that diminish the runner from deserving the medal? Are we to stipulate that only runners expected to win deserve medals? Such a criterion is nonsensical. Rather it is the other way around. Because the runner was prepared to use her capabilities and capacities in such a way as to place well, we give her just reward. Such an assessment respects the very core of her personhood, her conduct, projects, and reasons. In qualified circumstances this objection would hold that persons can deserve despite the presence of luck. Granted, the virtue of this version of desert nods towards the complex circumstances in which we find ourselves, attempts to aid human flourishing, respects that persons have reasons for pursuing their projects, and acknowledges the existence of persons who are accountable for the choices they make. At the same time, however, this objection is vulnerable to radical contingency; everything is colored by luck of one sort or another.

**Fallibility and Fragility**

The approach detailed in this chapter is not a resignation to the fates. Nor do I think it an appropriate response to declare that the fates have no bearing on the matter of justice either. Rather, a suitable approach would be to come to a deeper appreciation of the nature and character of the fate, luck, and contingency such that we might be better positioned as to practically know how to deal with them, to respond to them, or avoid them if possible if and when they come to colour our projects. I think this is best served by cultivating the knowledge of how to use the truths that we discover or create so as to be able to deploy them in the appropriate fashion. This requires that we be practice a complex tapestry comprising four key attributes: fortitude, wisdom, self-
affirmation, and life. I have used Rorty and others to represent these points in more
detail. This is fraught with epistemic uncertainty, but are contingency and chance are not
merely signs of human ignorance, they are ineradicable pervasive features of the
universe and show the limits of human cognition.

Returning to Nussbaum’s assessment, her argument is that the value of the good
in a person’s life comes from it being delicate, fragile, and vulnerable. I take her to mean
that it is unlikely people will be good to one another. It is unlikely that people will be wise.
And it is unlikely that people will care for and about one another. Because these things
are unlikely, there is a certain amount of awe due when they do occur. Consider the
example of Mandela having been released from prison adopting the public persona of
reconciliation and forgiveness. Such good was unexpected by most observers of the
South African situation. For this reason, we should appreciate it while it lasts. The good
is subject to chance, contingency, conflict, and it cannot be indefinitely isolated from
these forces. As an example of the radical contingency of the good consider that if I
never had the opportunity or the circumstances where I faced the conditions of where
being brave was required, then I may never have the opportunity to test whether I was
brave or not, or to demonstrate some of these good virtues.

To apply a critical test to the above principle, let us return to Nagel’s scenario
where there exists the possibility of the Nazi officer who could have had a “quiet and
harmless life.” To put it blatantly, is the Nazi officer any less good because of his
involvement in genocide? Is the Apartheid prison official any less good because he
guarded Mandela?

The general circumstances in which people live are not of their own choosing, so
do the actions of a Nazi officer make him not good, or are we to allow that he was good
but was broken by the system in which he lived, and that a real understanding of the
good needs to turn on the could have been otherwise requirement? Because clearly and
certainly the actions associated with concentration camps are not good, but is the Nazi
officer bad because he was unable to be good, to do good, that he was at a loss to do
the right thing, that his integrity was tarnished by the circumstances and events in which
he was involved? He failed to have the courage when needed, but we are also wrong to
believe that everyone should have courage; rather the reason we value courage is because it is unlikely, it is beyond the call of duty.

We are now better positioned to directly confront Williams’ three charges. As to the point that possible alternatives exist, one would welcome this knowledge because she comes to learn how this might help her particular project as it shows other courses of action are possible should the present course prove difficult to maintain. As to the possibility of error, one accepts that this might be the case, and is therefore commensurably honest with her motivations, and willingly seeks out means to check her bearings. As to knowing that things could have been otherwise, one does not let this cripple her, because those actions are past and unable to be changed; instead she labours to make sure she can improve her present set of circumstances. Together, these attitudes allow the person know how and when to make the appropriate moral judgement, and is this fashion, it is a virtue that requires constant practice.

In light of the above, let us now reconsider the nature of the good. As it stands the good is virtuous because it is unlikely and unexpected. In Platonic hyperbolic perfectionism, the good is unbreakable and untarnished, but almost every person cannot be good in that way. To make the exceptional the basic standard of conduct is to diminish the large numbers who are not positioned to do more, or who are simply average and cannot do more. It is ultimately an anti-human approach that chastises the ordinary, and as soon as we chastise the ordinary, we are on a kind of moral eugenic track. Expecting people to be unbreakable is unreasonable. By demanding too much we might set persons up to fail, and in turn accelerate the breakage, discouraging them through consistent failure to meet unrealistic targets. This is a moral failure.

It is arguable that much like truth perfect creatures have no need for the concept, as they are by definition, good. For perfect creatures, ‘good’ is meaningless. Rather imperfection makes ‘good’ meaningful, and ultimately colours our estimation thereof. With this in mind, we should not pressure people to be good, but rather help create circumstances where they act out of their own volition to do and be good; for what good is there if it is imposed? For these reasons a practical assessment of good is one in which we should put stock.
Acknowledging our fallibility and fragility does not lessen the goodness of moral commitments. In the meantime we must make do with what we have, hoping through reflection to refine our ideas, and uncover pervasive error in beliefs and attitudes. The earnest desire to do so is at the core of the self-critical project. The knowledge of error ought not to lead to paralysis or disengagement, but rather should provide simulative grounds for invigorative inquiry with the resources we have at our disposal.

In sum, being able to practice and cultivate virtues turns on contingency, and hence the practical human good is open to contingency. Recognising this need not require despair, but rather the acknowledgement that the good is possible, and meaningful. The presence of contingency may make attaining the good more difficult, or even unlikely in some cases, although it does not in principle overwhelmingly undercut it either. However, it does point to how societies seek to manage this feature of the universe. For this reason, in the next chapter, I survey several social analyses of the interplay between choice and chance in late modernity.
Chapter 5.

Towards a Social Analysis of Institutional Luck

This chapter provides an overview of the distribution of luck in an effort to dispel simplistic analyses of rising inequality, as well as make the case that power and mystification are mechanisms that appeal to the idea of individual bad luck, thereby allowing institutions to back out of welfare commitments. In an undeservedly lesser-known intellectual dispute Brian Barry, Steven Lukes, LaDawn Haglund and Keith Dowding debated the explanatory value of luck in political analysis. The debate revolved around two questions: 1) is it possible to use luck as an analytical category; and 2) if so, when should this category be used? This debate stemmed from a provocative question posed by Brian Barry. He asked which is a better attribute, luck or power. For Barry, power is the “ability to change outcomes from what they would otherwise have been in the direction he desires.” Conversely, luck is a beneficial outcome when no power was exercised. Picking up upon this point, Keith Dowding argued these definitions were all well and good, but one should be aware that some interests are predisposed to being lucky:

Some groups of people are lucky: they get what they want from society without having to act. Some groups are systematically lucky: they get what they want without having to act because of the way society is structured. It may seem odd to think that luck can be systematic; but it denotes the fact that people may get what they want without trying and this property attaches to certain locations within the social and


338 Barry, B. (1991), 'Is it Better to be Powerful or Lucky?' Essays in Political Theory: Democracy and power, Clarendon Press

339 Ibid. p 272
in institutional structure. Luck in this sense is closer to fortune or destiny than to simple chance.\textsuperscript{340}

While attributing power to agents rather than institutional structures, Dowding, in a later defence, argues that "capitalists were lucky in the sense that governments would often do what capitalists want without the latter having to intervene in the policy process."\textsuperscript{341}

To make this position viable, Dowding distinguishes between two types of power: outcome and social.\textsuperscript{342}

The first type of power is similar to Barry's conception of an ability to use either influence or force to attempt to direct the specific outcome of an event. Dowding holds that sometimes luck is involved in this process, but this a mistake in attribution. Due to the often competitive nature involved in these types of events there is no guarantee of one outcome or another. Certainly while achieving the desired outcome is favourable, the actual actions that attempted to secure a goal in some way or another contributed to the favourable outcome. Hence this is not luck as defined by Barry.

The second conception is a power that can be "deliberately [used] to change the incentive structure of another actor" to "bring about or help bring about outcomes." Dowding maintains that such a skewing of the incentive structure can only be achieved through the use of alliances. This can create a system that may reduce the need of some to constantly act to achieve their desired goals. The use of power at one point may translate to luck at another. In other words an investment in the creation of a system at one point, through the use of power, may translate to luck sometime later. As Dowding mentions, this is akin to fulfilling a destiny.

It is clear that Dowding thinks a person is able to pre-emptively act to secure a more desirable position. However, Dowding holds that this pre-emptive action is conceptually attributed to the status of luck as opposed to be merely given that status by persons who might not be aware of how a particular system may privilege certain

\textsuperscript{341} Downing, K. (2002) 'Resources, Power and Systematic Luck: a response to Barry and Lukes & Hagland' (MS) p 2
\textsuperscript{342} Dowding, (1996) \textit{op. cit.} p53
members. Lastly Dowding offers little to account for the fleeting nature of fortune; what of bad luck or what of situations where good luck is lost? Is bad luck merely the converse of good luck? That is, no matter what power is exerted the outcome will never be favourable. So the question must be asked, can one indeed be systematically unlucky?

For these aforementioned reasons Lukes and Haglund take issue with Dowding’s conception of luck. Their major criticism is that Dowding does not sufficiently distinguish luck from power. Subtly they even deride Dowding for not giving enough attention to the different forms of luck—"good luck" and "bad luck"—which Barry initially proposed. They continue to make several substantial points that weaken Dowding’s position. For our purposes the two most important are that 1) capitalists (Lukes and Haglund using Dowding’s example) constantly try to influence politicians to gain benefits that may be more difficult to access by others who are less powerful. This is not a factor of luck, but rather of petition and the greater ability of capitalists to mobilize institutional rules and personal resources to secure outcomes. 2) While actors might see themselves as being in a position of luck, their position that brings them luck must relate to structural conditions. This is different from the position that Dowding explicitly adopts where structures have no inherent power. By contrast Lukes and Haglund argue that these structural positions are not arbitrary, but rather, when examined over time, one can see that they are the result of power relations. The implication is clear; “luck” must be placed in an historical context of power.

The interesting question remains to what point does one ascribe power to the position of a group, or can more headway be made in simply saying that they benefit from either good luck, or have suffered from bad luck? Does it make sense to say that the city of New Orleans suffered bad luck with the arrival of Hurricane Katrina? Perhaps, if this assessment happens to be shortcut for a complex set of geographic and atmospheric conditions that channelled the Hurricane to New Orleans as opposed to 30 miles either side of the city.

That said, to what extent can bad luck be attributed to the damage? Perhaps little, if one considers the extent to which structural inequality puts persons in harm’s way insofar that some persons live in houses made of low quality materials, the correlation of
wealth and geographic susceptibility to flooding, the cumulative effect of the neglect of the levies and the reluctance to invest in their adequate maintenance over the years, and the lack of an adequate response in the immediate days leading up to the Hurricane’s landfall when knowledge was available about the potential disruption.

To bring clarity to this debate, what is required is a richer sociological rather than philosophical refinement of luck. I refer to this sociological approach as one that emphasizes the importance of *institutional luck*; that is, the apparently naturalized but nevertheless structural allocations of life chances. These allocation mechanisms deeply affect individual and collective prospects for human flourishing. With the commitment and definition, it seems eminently reasonable that analysts will give due attention to how luck is constructed, showing how the seemingly non-connected actions that effect people are in fact connected. As C. Wright Mills has written, “many personal troubles cannot be solved merely as troubles, but must be understood in terms of public issues.” Accordingly, it will be profitable to develop an analysis of luck showing how some circumstantial and life-chance outcomes are ideologically colored. This requires that one have a deeper appreciation over causal linkages, probabilistic outcomes, and sequences.

In pursuing this social analysis of luck, one need not start with a blank chalkboard. Contemporary sociological thought emphasises a person’s susceptibility to luck being a feature of historical circumstance and/or the social roles they occupy. While no doubt preceding them, one can trace this line of thought in an arc from the work of Thorstien Veblen at the end of the nineteenth century to the late twentieth century social thought of Ulrich Beck and Anthony Giddens, in addition to the philosophically inclined work of writers such as Zygmunt Bauman and Steven Lukes.343 Individually these writers cannot fully explain an analysis of luck; but each does have something unique and valuable to contribute. I am not suggesting the work of these diverse scholars can

343 The late Neil Smith’s Uneven Development and his essay on Hurricane Katrina ‘There’s No Such Thing as a Natural Disaster’ have much to contribute, but for reasons of brevity, focus, and scope they cannot be included in this treatment. The same applies to Stephen Kern’s A Cultural History of Causality and Ian Hacking’s The Taming of Chance and The Emergence of Probability.
be reconciled into a neat and tidy theoretical totality. There are important divergences and discontinuities between them on many points. Still, despite their differences, in my view, there is a sense in which their theoretical respective work shares in the project of analyzing how modernity has changed causal imaginations in the West, thereby impacting an understanding of life chances.

Veblen’s Distinction between Production and Consumption

Veblen provides a useful starting point in mapping this project. In The Theory of the Leisure Class, Veblen considers the belief in luck to be an “archaic trait”, relating to a particular “habit of mind” which developed before “predatory culture.” Here the belief in luck constitutes

an animistic sense of relations and things, that imputes a quasi-personal character to facts. To the archaic man all the obtrusive and obviously consequential objects and facts in his environment have a quasi-personal individuality. They are conceived to be possessed of volition, or rather of propensities, which enter into the complex of causes and affect events in an inscrutable manner.

The tendency to reify forces either as objects, or working through objects by having a “preternatural agency” distorts “the appreciation of causal sequence.” The direct consequence is to diminish the perceived agency of the individuals who hold this belief. This tendency to explain ignava ratio is particularly acute when an event’s causes cannot be accounted for or fully understood. Therefore the belief in luck is fallacious because people surrender control to non-existent forces.

While a person’s beliefs could be defended on a number of grounds, Veblen proposed that the industrial economy seeks and selects labourers who are swayed by reason and rationality. These appeals to the supernatural, and the habit of mind they cultivate, Veblen argues, at the level of the productive labour are a “hindrance to the highest industrial efficiency,” and “incompatible with the requirements of the modern

344 Veblen (2007) op. cit. The following selection of text are drawn from Chapter 11, The Belief in Luck
economic process.” This is because the primitive mind is not the mind of the person expected to conduct rational economic labour. This affects the “individual’s serviceability for the industrial purpose.” As Veblen writes:

In order to have the highest serviceability in the complex industrial processes of today, the individual must be endowed with the aptitude and the habit of readily apprehending and relating facts in terms of causal sequence.

This is because “the industrial process is a process of quantitative causation.” Labourers must apprehend the “quantitatively determined causal sequence.” Failure to do so lowers their industrial productivity. Accordingly, the modern industrial economy has an interest in promoting reason and rationality at the expense of traditional systems of beliefs.

Against the productive desire for rationality, the belief in luck can have direct economic benefits in consumptive practices. This is because the belief cultivates a temperament and proclivity for status, in turn driving conspicuous consumption. Veblen provides the example of gambling as it applies to the “sporting life” and “[b]etting on the issue of contests of strength and skill.” Here betting is related to the aspect of anticipation, but also to “enhancing the chances of success for the contestant on which it is laid” and forms an incentive to back “one’s favorite in any contest” through invoking the supposed sense of the “inscrutable but spiritually necessary tendency in events.” In this manner, luck is conceived of as a self-fulfilling prophecy.

Thus, for Veblen, the belief in luck is “unmistakably a predatory feature” one that is a “special manifestation of the instinct of workmanship” because of a relation to “an inscrutable teleological propensity in objects or situations” where “[o]bjects or events have a propensity to eventuate in a given end, whether this end or objective point of the sequence is conceived to be fortuitously given or deliberately sought.” Events are explained by their outcomes in relation to luck, but importantly also by the person’s relation to luck. Luck creates the temperament of comparison thereby driving codes of importance, the objects of consumption, and tastes. Further it seeks to induce and conserve “a certain habitual recognition of the relation to a superior, and so stiffening the current sense of status and allegiance.” This institutionalizes the “relation of status
between the human subject as inferior and the personified preternatural agency as superior.” Veblen concludes that the belief in luck retards the productive capacities of modern economies, but does however serve to foster consumptive practices. Thus, from the perspective of the modern industrial economy, there remains an ambivalent relationship to this particular belief.345

Irrespective of whether Veblen’s model of the belief in luck correctly depicts a set of relationships in industrial society, it most certainly cannot account for features of late modernity. As an example, Financialism—minimally understood as a mode of flexible accumulation using a diversity of financial techniques—thrives on leveraging perceptions of particular outcomes, hedging assets, and the deployment of statistical mathematical techniques to finance.346 This ‘playing the market’ relies upon harnessing luck; being prepared to ‘run the risk’ as it were. Likely a practitioner of the trade would say that there is significant skill too. For instance market practitioner’s might say that in the short term there is significant factor that can be attributed to luck whereas in the long term there is a high skill factor involved.

Other attributes are evident if one expands the analysis to include a mode of governance and its relation to flexible accumulation, that leads to the formation of a particular way of life, which includes, property speculation, precarious labour, the substitution of lifelong work with contractual work, a reserve army of labour, structural unemployment, privatization of state assets, interest payments. Thus one needs to develop a model that better understands these features of contemporary economies.

345 The memorable line from Veblen being “[t]he primitive savage takes his animism less seriously than the barbarian or the degenerate savage. With him it eventuates in fantastic myth-making, rather than in coercive superstition.” If we bear with Veblen and his categories, he points out that the barbarian is a person who cannot fully adapt to the industrial society, whereas the primitive savage is one who has not yet adapted. See Veblen (2007) op. cit.

Beck and the Allocation of Risk

The contemporary German sociologist, Ulrich Beck, would arguably be sympathetic to certain features of Veblen’s argument. Like Veblen, Beck holds that the industrial society seeks to rationalise the workplace, and conceals the extent to which it depends upon traditional social forms; but what Beck would add is that science, knowledge, and conceptions of rationality are tightly interwoven with modernity, as opposed to being objective measures and metrics that are outside and independent of this process. In this respect Beck follows in the Critical Theory tradition which concerns itself with reason and rationality as efficiencies, as exemplified by Adorno and Horkheimer’s *Dialectic of Enlightenment* and Horkheimer’s *Eclipse of Reason*.

Like many others, Beck observed and commented upon modernity, the growth of transnational capital and governance institutions, but where his account distinguishes itself is in showing how the rational belief in probabilistic actions is a key feature of a late industrial society. Beck’s analysis in *Risk Society*, sought to demonstrate how expert systems define standards of reason, rationality and risk. Experts come to organise bodies of knowledge, and are subject to disciplinary pressures, come to organize the environment.

The key point Beck makes is that there is an interrelationship between structural change and the understanding of causality. In this account, the belief in luck is not a result of a habit of mind from pre-historic times, but rather a recent condition of mind created by current economic and material arrangements. The appearance or disappearance of luck as a category of thought hinges on structural changes. Using Beck’s model, one can infer that in late modernity there is no need for the concept of luck. It would be replaced by chance, probabilities, and risk.

Risks are defined as the possibilities of physical harm due to a given technological process as determined by technocrats who are often distanced from the very people who will come to bear the risks and outcomes of these risks. Bad luck, is

Although Beck stands adjacent to the Habermas’ conception of modernization.
often not simply bad luck, but rather the outcome of an extended chain of decisions and sequences. For example, in this view, the victims of Hurricane Katrina did not suffer brute bad luck, but rather disproportionally carried the risks of their society.

The politics of a risk society turns on who can create risks, which group will bear the consequences of the risks of a given structure, and the general distribution thereof. A good example is the nuclear power plant. Who bears the risks in the risk society, and have they accepted these risks. Beck writes that “Risk may be defined as a systematic way of dealing with hazards and insecurities induced and introduced by modernization itself.”348 And:

In contrast to all earlier epochs (including industrial society), the risk society is characterized essentially by a lack: the impossibility of an external attribution of hazards. In other words, risks depend on decisions, they are industrially produced and in this sense politically reflexive.349

So as not to be mistaken, Beck is not claiming that a risk society has no industrial base, or industrial type politics. Instead he is saying that a risk society concerns the politics of risk assessment, perception, and allocation.

The myth of the modern era is that modernity removes constraints, but Beck maintains what has occurred is rather the introduction of new constraints, imposed by rationality, and supported by science and scientism as the only form of public knowledge. The implication acts on the individual. The individuation of social agents requires that they come to take responsibility for their conduct, even the parts which are the result of bad luck. Further these choices affect their life chances, they in part become responsible for bearing the outcomes of their life chances even while there remains a structure in which these actions are said to take place. Regarding work, this leads to the decomposition of class structure and the place-workplace, as well as offering individuals the moment to reflect and flexibility. Beck names this the progressive “individualization of social inequality.”

349 Ibid. p183
In appraisal of this model, Beck is quite correct to point out the extent to which risk management is a feature of modern society. But as William Leiss glibly remarks, it might be a bit much to claim that this feature is “inherent in German social theory, namely to wish to transmute every newly discovered sociological phenomenon into the latest chapter of the world-historical dialectic.” Leiss’s point is to ask whether the risk society is a feature of a coordinated mode of governance, or of some historical force such as capitalism. I share Leiss’s skepticism in attributing risk exclusively to the inevitable logical development of capital relations.

Further, Beck’s failure to acknowledge the benefits of manufactured risks introduced by industrial society borders on argumentative negligence. Let me paraphrase a few of Leiss’s criticisms. Firstly, while there are new pollutants in foodstuffs in industrial society, on the whole food is far safer because it has fewer pathogens. Surely such developments are improvements with less risk. Secondly, there are judgements of acceptable levels of risk; chemotherapy is a risk, but one undertaken against our ability to specify acceptable levels of exposure. Beck’s rebuttal might be that opinions about chemotherapy rest in the hands of the technocratic elite, but this is simply a caricature of the scientific process and bureaucratic practices. It has the trapping of the ‘conspiracy theory of science’ so often invoked by those on the extremities of the political spectrum. Besides, if there is institutional failure on scientific guidelines, best practices, and acceptable levels of risk, then the society has a more pressing problem of governance than risk. This is not to say that scientific councils and institutions are never incorrect or mistaken, but rather to say that they are hardly an evil. In this case Leiss is correct to say Beck provides: “a one-sided, highly selective account of the mismanagement of a few technologically induced hazards, an account which simply cannot be generalized.” Finally Beck does not attempt to account for people voluntarily who take on induced risks, which is strange given that successful risk takers are celebrated for their ‘bold’ actions and their spirit of doing things others are unprepared or unwilling to do. This category of risk is untouched and the specific perspective in which we experience risks.

In defence of Beck, his insight that “the social production of wealth is systematically accompanied by the social production of risks” is important. He continues
to add: “the problems and conflicts relating to distribution in a society of scarcity overlap with the problems and conflicts that arise from the production, definition and distribution of techno-scientifically produced risks.” To be clear, risk is different to the odds of an event occurring. For instance, the odds of a person dying in a car accident are much higher than the odds of dying in an airplane accident, but yet it is common to think of flying as riskier than driving a car, illustrating that risk is subject to differential perceptions of potential outcomes rather than actual outcomes. While this lay perception may be built upon ignorance it still nevertheless has a kind of traction within a lay person’s mind, and their subsequent actions. In short, perceptions of odds and credence play a considerable role in socially determining the distribution and concentration of risk. These interpretive allocations of risk and credence make it possible for actors to speak of luck. For instance to get into a car accident might be considered bad luck. These factors considered, risk is related to judgement regarding the potential impact that a specific outcome might occur: the odds of a nuclear accident occurring are considered extremely low, yet the risk attached to these odds is high. For these perceptual reasons, risks are political.

Risk is therefore something that persons aim to minimise either personally or collectively through mass action or through representatives. For this reason in liberal-democratic societies, exchanges between actors often assume that the party that carries the most risk should be compensated for doing so. Carrying the risk of others could be seen as socially convivial. In addition assuming the risk as an investment is considered as just. Yet, in assuming positions of risk, often those positions are able to be made into productive sources of revenue. And as seen with the crisis in the derivative market from 2006 onwards, risk can be traded provided it has been secured by the state.

While taking the above comments into consideration Beck, to his credit, can be said to have updated the sociological framework by which we can understand both luck and risk and their respective roles in reflexive modernization against the structural change underway in the movement from an industrial society to a risk society.
Giddens and Trust

In his books *The Consequences of Modernity*, and *Modernity and Self-Identity*, Anthony Giddens comes to somewhat similar conclusions as Beck, particularly in respect to the institutional analysis of modernity. While their terminology is different, there is a sense in which Giddens and Beck are both concerned with a similar problem, that being the social dimension of trust. However, due to his theory of structuration, Giddens tends to have a stronger analysis of the moments in which agents negotiate the constraints imposed by institutions, organizations, and administrations, the role of trust in abstract systems, and the symbolic tokens generated by such systems.350

Unlike Beck, Giddens holds that a risk society is a characteristic of late modernity, as opposed to merely being its rough equivalent. Such a tweak is not a triviality, but rather points to how risk society itself is a form of disruption. For Giddens this is because of this understanding of modernity as being a “disorientation.” This “disorientation expresses itself in the feeling that systematic knowledge about social organization cannot be obtained” 351 and stems from “the sense many of us have of being caught up in a universe of events we do not fully understand, and which seems in large part outside of our control.” 352 Giddens describes the risk society as “a society where we increasingly live on a high technological frontier which absolutely no one completely understands and which generates a diversity of possible futures.”353 Here we see modality introduced into sociological analysis whereby the present was once the plurality of possible futures. Accounting for the present turns on accounting for what could have been, and the reasons why these futures were not actualised. To this extent, Giddens’ understanding of risk is grounded in his presentation of the reflectivity of modernity, the double hermeneutic, and the importance of ontological security.

350 Giddens hold that it is a mistake to equate post-modernism with risk society. Whereas post-modernism interpretations downplay politics and institutions, the risk society concentrates on institutions, organization and administration. Giddens, A. (1990) *The Consequences of Modernity*, Stanford: Stanford University Press, p2
351 Ibid. p2-3
352 Giddens (1990) *op. cit.* p2-3
If sociological analysis and practical reasoning are disorientating, Giddens holds that understanding such disorientation lies in the nature of modernity itself. Giddens maintains that modernity is discontinuous. That is to say “modern social institutions are in some respects unique—distinct in form from all types of traditional order.”\textsuperscript{354} What Erenst Gellner has called the “Big Ditch”\textsuperscript{355} This refers to the discontinuities introduced by the “pace of change” and to the “scope of change”\textsuperscript{356} and “security versus danger,” and “trust versus risk” As it relates to luck, we can see the possibility of bad luck as danger, it is the flood, so settlement is a form of security. This is the medievalist account of luck. As Gidden’s explains:

risk is not the same as hazard or danger. A risk society is not intrinsically more dangerous or hazardous than pre-existing forms of social order. It is instructive in this context to trace out the origins of the term ‘risk.’ Life in the Middle Ages was hazardous; but there was no notion of risk and there doesn’t seem in fact to be a notion of risk in any traditional culture. The reason for this is that dangers are experienced as given. Either they come from God, or they come simply from a world which one takes for granted. The idea of risk is bound up with the aspiration to control and particularly with the idea of controlling the future, rather a risk society is increasingly preoccupied with the future.\textsuperscript{357}

Still, danger has increased in modernity. The ability to kill on an industrial scale is a danger, so is the threat of nuclear war, the danger of technology, and the security technology purportedly introduces. Certainly modernity offers much, but it is a “double edged character.”\textsuperscript{358}

Giddens says that risk society comes from two transformations, “the end of nature” and the “end of tradition.”\textsuperscript{359} Giddens uses the end of nature to mean little of the

\textsuperscript{354} Giddens (1990) \textit{op. cit.} p3
\textsuperscript{356} Giddens (1990) \textit{op. cit.} p6
\textsuperscript{357} Giddens (1999) \textit{op. cit.} p3
\textsuperscript{358} Giddens (1990) \textit{op. cit.} p10
\textsuperscript{359} Giddens (1999) \textit{op. cit.} p3 Each is connected to the increasing influence of science and technology, although not wholly determined by them.
“physical world untouched by human intervention”\textsuperscript{360} while “to live after the end of tradition is essentially to be in a world where life is no longer lived as fate.”\textsuperscript{361}

The end of tradition is the equivalent of Beck’s individualisation. I understand this to mean that predetermined roles and expectation are not imposed on people. This is not absolute: Giddens, admits that classes do, to a degree, still have a fate. Modernity has introduced a degree of social mobility unheard of and unimaginable to those who lived in traditional societies. Still, one also has to recognise that life chances continue to hinge on birth and other inherited factors, and that we should not be caught up believing that we are at the end of tradition, just that the tradition has changed form.

Giddens divides risk into two kinds, external and manufactured. External risk applies to events that occur unexpectedly, but in somewhat of a predictable fashion, for instance a person losing his or her job in shrinking market, or a train accident where poor maintenance leads to a derailing. But, because these risks are predictable, a society has the ability to insure against them. For example a welfare state is a security state insofar that it implements collective insurance to secure against fates by providing social services and income redistribution. It is attentive and features the desire to extend control over circumstances somewhat beyond the control of the individual.\textsuperscript{362}

Manufactured risks, on the other hand, are the by-product of human development itself. Leiss describes these as “risks that are deliberately undertaken—for the sake of benefits conceived in advance—by means of our technological mastery over nature.”

\textsuperscript{360} Giddens explains that
For hundreds of years, people worried about what nature could do to us – earthquakes, floods, plagues, bad harvests and so on. At a certain point, somewhere over the past fifty years or so, we stopped worrying so much about what nature could do to us, and we started worrying more about what we have done to nature. The transition makes one major point of entry in risk society. It is a society which lives “after nature”
Giddens (1999) \textit{op. cit.} p3

\textsuperscript{361} Giddens (1999) \textit{op. cit.} p3

\textsuperscript{362} Giddens notes that justification for the welfare state in an era of manufactured risk becomes increasingly difficult as many of the risks faced and need security from are manufactured. Because of increased knowledge, one can blame the state, corporations, or others, for their activities that have negativity impaired you. There are an increased number of things for which a person can claim security and due.
They come about because of the creation of new environments, conditions and technologies of which we have little experience. Here the problem is not so much how to solve these risks, but rather how they are managed, both at a personal level, and in social and political life, but can also bring about a feeling of powerlessness or lack of responsibility. For example Giddens invokes Chernobyl, and we can invoke Fukushima, Hurricane Katrina, the BP oil spill, and so on. These things do go on to affect patterns of life, and life chances. Giddens and Beck agree that this process of manufactured risk has affected the way we think about risk, how we are subject to the risks of things we have implemented, need to find ways to absorb them, but also that there are only “future scenarios” of how this risks might play out.

According to Giddens, the political decision making of late modernity is characterised by who bears risks; in effect how and why risks are allocated and distributed. Understanding the reasons for risk distribution becomes one means to assess the sociological shifts in late modernity as well as offering a lens into the power dynamics of contemporary society. Giddens states that this introduces a reorientation of values as people attempt to cope with manufactured risks. This in turn has “strong implications for rethinking the political agenda,” because risks are quantified in terms of values they are said to preserve or enhance. The clash of risks then is a clash of values and proposes a direct set of political questions.

If we combine Giddens’ thought in The Consequences of Modernity with that presented in Modernity and Self Identity, one can see the initial development of the conception that in a risk society, politics is more than a discrete practice, but also a particular way of thinking. We understand this by drawing upon Giddens’ concept of the disembedding mechanism. For purposes of definition, when using the term disembedding mechanism, Giddens means an object, practice, thought, or moment that ‘lifts out’ the “social relations from the local contexts of interaction and their restructuring across indefinite spans of time-space.” If facticity is experience of being thrown into

363 Giddens (1999) op. cit. p4
364 Giddens (1999) op. cit. p5
365 Giddens (1990) op. cit. p21
the world to become disoriented, disembedding is the lifting out of experience to be disorientated.

There are two types of disembedding mechanisms “symbolic tokens” and “expert systems.” Symbolic tokens are the “media of interchange which can be ‘passed around’ without regard to the specific characteristics of individuals or groups that handle them at any particular juncture,” while expert systems are thought of in a similar manner as Beck. Disembedding mechanisms combine elements of both symbolic tokens and expert systems, albeit in differing mixtures depending upon the particular type of object, practice, thought, or moment. The important insight that Gidden’s makes is that all disembedding mechanisms “depend upon trust.” Accordingly trust is “involved in a fundamental way with the institutions of modernity.” And “[t]rust here is vested, not in individuals, but in abstract capacities.” For example, expert systems are not related to actual persons per se, but rather the abstract principles that come to be associated with their station. Trust for Giddens is like faith insofar that “the confidence vested in probable outcomes expresses a commitment to something rather than just a cognitive understanding.” One trusts the building not to collapse. One trusts bankers to not steal your money.

Trust, as a disembedding mechanism, is a feature of the way of thinking about politics, but in many senses is bound up with contingency, not risk: “Trust always carries

366 Giddens (1990) op. cit. p22
367 Giddens (1990) op. cit. p26
368 Giddens (1990) op. cit. p26
369 Giddens (1990) op. cit. p26
370 “Expert systems are disembedding mechanisms because, in common with symbolic tokens, they remove social relations from the immediacies of context. Both types of disembedding mechanism presume, yet also foster, the separation of time and space as the condition of the time-space distanciation which they promote An expert system disembeds in the same way as symbolic tokens, by providing ‘guarantees’ of expectations across distanciated time-space” Giddens (1990) op. cit. p28
371 Giddens (1990) op. cit. p27. There is a difference between faith and trust in that faith is absolute, and need not require experience, truth is limited, and based on experience.
the connotation of reliability in the face of contingent outcomes, whether these concern the actions of individuals or the operation of systems.\textsuperscript{372} Further,

The concept of risk replaces that of fortuna but this is not because agents in pre-modern times could not distinguish between risk and danger. Rather it represents an alteration in the perception of determination and contingency, such that human moral imperatives, natural causes, and chance reign in place of religious cosmologies.\textsuperscript{373}

If this is the case, there is a particular boundary issue in Giddens’ analysis work that needs to be addressed: in that there is a difference between a risk society, and society which uses trust to manage the contingency it encounters. I hold that Giddens does not stress or separate out this difference strongly enough, and the strength of the analysis arguably suffers for it.

To back this claim up, let us examine the following analysis Giddens provides to demonstrate a risk society.

Many people get ill through no fault of their own. But a large proportion of illnesses are related both to lifestyle practises and to wider conditions of the ‘created environment’. It doesn’t make any sense to suppose that liability in these circumstances can remain wholly with the collectivity, whether this be government or an insurance company. The active assumption of responsibility, as in attempts to reduce levels of smoking, becomes part of the very definition of risk situations and therefore the attribution of responsibility.

Further, it has something to do with agency itself. It is as if agency has changed:

The relation between risk and responsibility can be easily stated, at least on an abstract level. Risks only exist when there are decisions to be taken, for reasons given earlier. The idea of responsibility also presumes decisions. What brings into play the notion of responsibility is that someone takes a decision having discernible consequences. The transition from external to manufactured risk is bringing about a crisis of responsibility, because the connections between risk, responsibility and decisions alter. This is a crisis of responsibility with negative and positive

\textsuperscript{372} Giddens (1990) \textit{op. cit.} p33
\textsuperscript{373} Giddens (1990) \textit{op. cit.} p34
features, roughly corresponding to the negative and positive aspects of risk. 

Beck calls this “organised irresponsibility” in that there is a diversity of manufactured risks whose developments involve complex chains of manufacturing. This is evident in societies where there are contested knowledge claims, and where being able to delineate ‘who did what’ is difficult. As an example, who is responsible and culpable for the Hurricane Katrina? The Army corps of engineers who built the levies, city planners who created a city in a certain fashion, elected officials who refused to do this or that. In this sense, holding someone accountable is difficult, albeit not impossible, just less clear than in a world of external risks. This is similarly so with who should undertake reparations and compensation. As I understand it, Beck’s main point is to problematize the idea of responsibility at the level of the individual since it is individuals who make decisions. But, when decisions are taken in a context where manufactured risks render the decision moot, then we have what he calls a crisis of responsibility. This returns the discussion to the more sociological matter of individual decision making in the context of a collective will to do things that make such decisions immaterial in relation to the risk at hand.

Bauman and Precarious Ways of Life

If Beck and Giddens have an oversight it is that their attempts to understand relationships between trust and risk lack an explicit account of ethical conduct against a condition of disorientated facticity. In my view, the work of Zygmunt Bauman does not have this particular limitation. While Bauman used a different conceptual vocabulary, he nevertheless adopted a similar, if slightly qualified, industrial society account of modernity and late-modernity to that of Beck and Giddens. Bauman contends that the project of modernity is wary of heterogeneity, ambivalence, and uncertainty and therefore seeks to impose order onto supposed chaos to replace it with universalizing and uniform ways of life and codes of understanding. In contrast, post-modernity, which signals a tolerance for heterogeneity, ambivalence, and uncertainty, is itself wary of

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authority claiming universality, and proposes a decentered politics as normative. As a way to speak of each of these two cultural formations, Bauman uses the figures of the legislator, who represents modernity, and the interpreter, who represents postmodernity. Underlying the use of these two cultural figures is an argument on the changing condition and role of intellectuals. In modernity, intellectuals were in service of legislative and administrative ends, whereas in post-modernity, where intellectuals are no longer required for governance, they assume the position of interpreters whose task is to mediate the interaction of divergent social clusters to the ends of building solidarity. With this in mind, Baumann directed his analysis to the changes and shifts caused by late modernity as they played out among a population, and attempted to offer counsel to the very people affected by the conditions he observed.

For these reasons, I turn to his work as a way to account for how people and institutions attempt ethical conduct in the wake of late modernity. In this sense, Baumann’s work provides a useful bridge between the philosophical tone of much of my earlier commentary on luck and the more sociological accounts under discussion in the chapter at hand, However, before discussing Baumann’s proposal for ethical conduct, human flourishing and well-being, it is useful to provide a brief overview of his thought so as to better position the motivations underscoring his positions. These motivations can best be seen in a period bookended by the publication of his books *Legislators and Interpreter* (1987) and *Life in Fragments* (1995), before his move to explore the concept of ‘liquid’ modernity.375

Bauman has long maintained that the central contest of late modernity is not on formal politics per se, nor the struggle over productive capacities or the extraction of surplus value; but rather the struggle over culture and the way of life. This is because extraction is no longer a matter of one group with ties to ownership over the means of production seeking to extract surplus value, but rather the management of extraction has graduated to systematic status. It is considered to be a way of life. Here it would be correct to talk about a regime of extraction. This resonates well with earlier arguments about reason and rationality, and the historical moment of modernity, advanced by

375 Included in this period are *Postmodern Ethics* (1992) and *Modernity and Ambivalence* (1991).
Horkheimer and Adorno in the *Dialectic of Enlightenment*. If one is to accept Bauman’s point, conflict in society is focused around the attempt to establish and modify ethical systems of thought and practice. For Bauman, socialism is a ‘counter-culture’ in that it proposes a different way of life.\(^{376}\) Bauman’s fear is that which was done for the ‘liberal-capitalist culture’ could be repeated in other non-political ventures.\(^{377}\) For this reason, Bauman would be against the comprehensiveness of the liberal philosophical doctrine.

Orthodox Marxism is also wanting, in Baumann’s view, because Marxists tend to attribute the various conflicts in modernity to economic relations, often at the expense of a delicate understanding of ethics and conduct. Conflicts here are not along class interests, but fracture and skew along social lines as divisions and alliances are constantly being redrawn based upon the prevailing interests in the complex identity. Further, they are generally blind to the systematic manner of conflict over the reproductive capacities of society. For this reason, Bauman thinks it would be better to analyse late modernity according to social power, by which he means giving attention to interest groups and their consumptive practices as a means to understand how they reproduce themselves.

Bauman’s conception of modernity has two attributes, ‘impersonalism’ and ‘plebisicitarianism’ Roughly, impersonalism is the decline of paternalistic relations which shifts relations from traditional society, and creates an impartial subject. In contrast, plebisicitarianism is the process in which the creation of the citizen-subject who, to use

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\(^{377}\) *Ibid.* p35
Giddens’ term, adopts an attitude of civil indifference. Together these forces combine to produce a political realm, the legitimacy of which depends on the degree to which there is respect for the rule of law. As legal equality is established so must the consistent standard of judgement be developed. In short, people become equally bound by universally binding norms irrespective of their particular circumstances. For example, while it is no doubt unfortunate that a person in a wheel-chair is not equally endowed with the capacity to walk, this inequality does not diminish that person’s political standing, nor his or her claim to impartiality before the law, or impartiality in consideration with politics. But this is a difficult promise to hold, given that decisions are conditioned, as Giddens points out, by a way of thinking about politics. Furthermore, the modern political trade-off is that equality comes through subjugation to a set of norms, but this is at the expense of considering alternative political arrangements. In other words, politics shrinks because it no longer confronts the possibility of alternative political articulations or arrangements. Politics confines itself to the struggle to interpret, administer and extend the application of norms.

The shift from modernity to late or post modernity highlights the “pluralism of authority” and “centrality of choice.” This is part and parcel of the move from a society based upon production to one based on consumption. Or, as Bauman has claimed in his book, Liquid Modernity, a society which is “normatively regulated” to one without norms, and is instead guided by “seduction, ever rising desires and volatile wishes.” Here norms are associated with production, while fickleness is associated with consumptive

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378 Giddens proposes the concept ‘civil indifference’ as more analytically sharper and appropriate than the conceptual public-private divide proposed by Richard Sennet for example. Giddens reasons that the public-private divide masks that the need for intimacy predates modern developments like the public sphere and the transition from traditional society to industrial society. Additionally, what Sennet calls ‘public order’, or public concerns are also characteristics of traditional societies: encounters in traditional society cannot avoid having a public nature. Giddens remarks that a public-private divide only makes sense when a person encounters circumstances where everyone becomes a stranger, and hence when the concept stranger loses its analytical usefulness. Given that modernity does not cultivate these circumstances, Giddens proposes, quite correctly, that the term civil indifference, marking generalised public trust granted to others outside those who share an intimate relationship with you. Giddens, A. (1991) Modernity and Self Identity, Polity Press: Cambridge p 47, pp 150-152


practices. For this reason, Bauman believes that ethics over the conduct of ways of life is a key characterizing attribute of post-modernity.\textsuperscript{381}

In this movement, Bauman’s central point is ethics has increasing been individuated and privatized, and are no longer found in the large institutions, but rather fall squarely “on the individual’s shoulders.” The move from traditional societies, and even from industrial society, has abolished institutional reference groups that orient and assist persons in making life choices. Institutional reference groups today “are only too willing to cede the worries of definitions and identities to the individual initiative.”\textsuperscript{382} In this respect, institutions have almost been fully institutionally disinvested of responsibility of shaping a person. Responsibility is now an attribute of the individual, not the society, or even the central role players in that society. Collective forms of action are thus no longer the most appropriate forms of political responses, for impartiality gives rise to being inconsiderate of others.

But, Bauman believes that the demise of institutional reference groups and their involvement in making life choices has not vanished; such things have only become more discrete. While late-modernity has been an increase in emancipation,\textsuperscript{383} social mobility, and an increase in freedom and the ability to act upon life choices such that life chances are within our grasp, they are, to continue the liquid metaphor that Bauman uses, also wet, slippery, and quick to evaporate. What I mean by this is that they are prone to passing through the hands, a difficulty in being grasped even when seemingly close, and can vanish at any given point. At any given moment, full-blooded self-determination, or autonomy, to use the Kantian term, is the exception rather than the common experience. Moreover, if the unencumbered life of wholly free determination does exist, it does so for those that are members of the global elite, whose interests are not tied to any one particular locality, and their numbers are so small that realistically it need not matter what they think the benefits of this practice of politics happens to be.

\textsuperscript{382} Bauman (2000) \textit{op. cit.} p22
\textsuperscript{383} Bauman (2000) \textit{op. cit.}, chapter 1 examines the features of this new social condition in some detail.
The myth of no institutional referents and full responsibility has two ramifications. The first is that people become pre-occupied with their private problems to the extent that they mistake them for public ones, a grotesque misapplication of the ‘personal as political’ adage. The discussion of ‘public interest,’ becomes an impoverished ‘what is in my interest’ form of politics, and the mistaken belief that the public display of private sentiments is in the interest of the collective: The “public display of private affairs and the public confessions of private sentiments.” Public life is narrow, to the extent that citizenship is thought of as a trivial, and more often than not, an inconvenient identity. There ceases to be shared common public interests.

In line with this shift, Bauman claims that a condition of work has emerged, one bearing little resemblance to the condition of work in industrial modernity. Work in liquid modernity is characterised by the increasing separation of local politics from global forces, an increased capacity for labour mobility both as occupational mobility and spaces of work, and the emergence of a general state of precarity due to the re-regulatory practices occurring at the global level. When combined, these factors create general conditions of Unsicherheit, that is uncertainty and insecurity that politics encounters: “Ambivalence may be, as before, a social phenomenon, but each one of us faces it alone, as a personal problem” (2001:69). This precarity has consequence for how secure people feel in living their lives, and the extent to which the community wishes to support, or at the very least endorse, their life chances. Further, this can connect to low social capital and the extent to which people need to keep updating their short shelf life skill sets at personal expense.

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384 Bauman (2000) op. cit. p37. He adds the rider, “the more intimate the better.”

385 Bauman makes the disarming claim that in conditions of Liquid Modernity the poor are perhaps the only experience a degree of certainty for they know that they cannot escape their positions.
The development of global inequalities that are based upon the different structural allocations of life chances is a characteristic of structural uncertainty.\textsuperscript{386} For Bauman it is not incidental that the richest maintain their stations in life, while ordinary people live under conditions of great uncertainty. Indeed, most of the rich profit off of the uncertainty created by liquid modernity. Claude Lefort concurs, and he writes that generally late modernity has brought about the “dissolution of the markers of certainty.” In other words, there is a greater institutionalization of social and personal contingency.

As a practical way to recover certainty, Bauman calls for an overhauling of the public/private distinction, and a type of politics modeled on the agora in the hopes that this will close the gaps between local and global politics as well as provide the means to revitalise collective political forms. As a way to respond to this, Bauman, along the lines of public reason liberals, deliberate democrats, and public sphere theorists, calls for a model of politics along the lines of forums, the agora, where public interests can be developed through discussion and commonalities discovered.\textsuperscript{387} Generally, Bauman is in line with others who call for more, not less, public discussion. In some senses, Bauman seeks a “republican model of unity” seeking to advance the “joint achievement of the agents engaged in self-identification pursuits.”\textsuperscript{388}

There are, however, some notable problems with Bauman’s arguments. One criticism relates to the excessively negative colouring Bauman gives to the processes he observes to the extent that it blinds readers to some of the positive by-products of liquid modernity. Regarding responsibility provided it is pure responsibility, as opposed to some lay version, this may not be a bad thing. And, in regards to private concerns,

\textsuperscript{386}Bauman provided a number of statistics to support the divide between the super wealthy and everyone else. While they are out of date, the sentiment remains. In \textit{Globalization} (1998: 70) he cites figures that 358 of the wealthiest individuals had a combined income of more than 2.3 billion people, or 45\% of the world population. In \textit{Search of Politics} (1991) he writes that in developing counties 60\% of people lack access to basic infrastructure, while a third do not have access to drinking water. And in \textit{The Individualized Society}, in the USA, near 17\% of people live in poverty, 20\% are literate, and near 15\% have a life expectancy of less than sixty years (2001: 115).

\textsuperscript{387}Bauman (2000) \textit{op. cit.} p51

\textsuperscript{388}Bauman (2000) \textit{op. cit.} p178. On a point on order, Bauman has distanced himself from communitarian aspirations for he feels that they promote an ethic community model which aspires to homogeneity and hence the nation-state.
identity politics has certainly made progressive inroads to the expansion of individual rights. Inborn or culturally ascriptive determinations do not always over-determine a person’s station, and these are good developments. In response Bauman might say that these means gain immediate political ground, but at the expense of developing a strategic forethought. This would be because the concessions inadvertently perpetuate the notion that the presentation of the individual himself becomes the subject of a project of that same person. The problem is that where once personal identity was a given, it now becomes a constant task, and attending to this task sucks a considerable amount of energy from human life that could be spent elsewhere; political capital, in particular, tends to be invested in personal exercises. On the whole, I do not disagree with Bauman per se, but I would hold that what he sees as entirely negative does have potentially positive value. Constant contention to enforce personal and civic rights and entitlements is required to shatter rigid and given social stations. On the whole, this is a significant net gain.

A second criticism relates to the tension between Baumann’s use of the notions of ‘liquids’ and ‘solids.’ On the one hand, Bauman claims that all aspect of contemporary social life are fluid and uncertain, while the emergence of a new social hierarchy will become rigid. This is all good and fine, but apart from social mobility in time and space, to what extent is it substantively different from industrial modernity? The boundaries between elites and the other classes are just as solid. As one reviewer has remarked, all Bauman has done is replace “capital with mobility as the yardstick for ‘measuring’ class.”

Thirdly, he wants to regenerate the agora, the public/private space, so that the private troubles can enter into the public and ensure that private issues do not corrupt the public—perhaps similar to deliberate democracy—but Bauman provides little guidance to this. Besides, the agora is arguably a poor model for public life in contemporary societies. Notably, the agora was hardly ever the romantic ideal we believe it to be. Aside from the agora proposal, in In Search of Politics, Baumann advances the claim that “individual liberty can only be a product of collective work.”

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But, this is hardly controversial—perhaps it is even a democratic cliché—so I hardly see how this is different from boilerplate liberal contractualism.

On balance, Bauman’s contribution draws our attention to a kind of double movement that has taken place in late modernity. In this double movement some people, due to their social mobility, are more able to access and convert opportunities. But this gain is at the expense of the denial of opportunities to others. In other words there exists a bifurcation of life chances such that some persons can live a secure life, and others live in more risky, more precarious, circumstances. In doing so, Bauman cuts to the key target for a critique of institutional luck.

**Institutional Luck as Power and Mystification**

I have taken the time to work through arguments developed by Veblen, Beck, Giddens and Bauman to demonstrate how concepts such as risk, luck, and chance have been coopted by institutions as a way to justify the institutional allocation and distribution of luck, both good and bad. This involves the reification and social distancing of life chances away from ordinary persons such that a person becomes oblivious to the asymmetrical burdens of risk carried by persons in different classes and their commensurate differential exposure to (un)foreseen hazards or the structural.

When combining Bauman’s idea of double movement with Veblen’s identification of the licensing of certain kinds of beliefs based upon social position, the differential aspects of institutional luck become acutely visible; it is conducive for some to use their power to skew luck in their favour while denying this same attribute to others, but still cultivating the belief that to get ahead they should not rely upon luck nor fortune, but rather their talents. The amount of luck that some persons get is masked or withheld, depending on one’s social position. Herein there is a sense in which institutional luck is a shorthand explanation for the interplay between a complex set of causes that a person may have varying degrees of partial knowledge thereof. In this respect, the concept is analytically useful insofar that it opens up an examination of the social construction of life chances and how they are skewed towards certain social asset bases. associated with such things as social class, race or gender. Luck, at least in a market society, is used to
cover the gaps created by the outcomes of seemingly disproportionate incentive and reward structures.

Conceived in such a manner, institutional luck stands adjacent to Weber's idea of disenchantment. Whereas disenchantment attends to the social outcomes of methodological naturalism eagerly applied to the wider world, institutional luck seeks to pass over a naturalistic account of an event's causes altogether. Rather, invoking luck as an explanation for individual or social outcomes misses much of the perpetuation of structural bias or neglect. In this fashion, the idea of institutional luck is a component of mystification.

Mystification can be understood as a designed misperception of reality to turn persons into particular types of social subjects. This involves incorporating and organizing their particular lived experiences into an existing causal imagination, which in turn justifies and legitimises a particular means of distribution. In this conception, institutional luck is a tool of power, and serves particular interests. As an example many capitalist countries have insolvency laws that allow capitalists to take riskier actions due to governmental support. Asserting that luck exists is a technique of deliberate mystification meant to make a given population easier to govern. This shifts any potential bad luck from the social structure and places it disproportionately on the individual. In this system of thought, good luck is understood as a disproportionate increase of returns on investments of power at certain opportunities. Yet, this instance of good luck is simultaneously removed from viewing conditions wherein investments are made, plotted and averaged out. It is not due to luck that investment returns are either positively or negatively disproportionate, but rather it is due to the investment structure itself and the powers which circulate making or hindering various opportunities. Here the "luck" of a particular condition significantly influences possible opportunities.

This discussion of mystification requires a discussion of epistemological issues, for to claim that a person's beliefs regarding their perceptions is mistaken or incomplete, one requires means to determine truth from falsehood, veracity from credence. It is outside the parameters of this thesis to comment substantively on scientific techniques as they relate to a theory of science.
More generally, Marxists point to commodity fetishism and capital fetishism as social examples of partial structural functions of mystification. I take these comments and observations as sound and so set them aside. Rather, my point lies in another direction, that being the mystification of the actual and the possible. Like the aforementioned processes, mystification distorts the character of these effects, their causes, and the outcomes. Altogether, these delimit the conditions of existence and possibility, making it difficult for persons to conceive of other kinds of social arrangements. It is for this reason that one needs to offer functional and pragmatic alternatives; that is one must make the case for, and present to others, different policy choices and institutional management. Complementing this delimitation is the problem of institutional obstacles to demystification; in this respect, the continual institutional investment in luck is one such obstacle. This is because using luck in this fashion naturalises and mystifies these processes of differential distributions and justifies outcomes that when explained in other terms would otherwise create an awareness of a set of conditions in which opportunities slide disproportionally to certain segments of the population. I call this the problem of social delimitation.

Social delimitation is discussed persuasively in my view by Steven Lukes in his well known essay on Power. Having detailed and dismissed several naïve understandings of power, Lukes concludes his essay by arbitrating the now famous Poulantzas-Miliband debate on structure, individuality, and constrained actors. Lukes makes the incisive point that “within a system characterized by total structural determinism, there would be no place for power.” He is adamant that political analysis requires attention to the “exercise of power” or the practice of power:

“to identify a given process as an ‘exercise of power’, rather than as a case of structural determinism, is to assume that it is in the exerciser’s or exercisers’ power to act differently. In the collective exercise of power, or the part of a group, or institution, etc., this is to imply that the members of the group or institution could have combined or organized to act differently.”

393 Ibid. p57
The justification of this claim, and the key to the latter two difficulties involved in the identification of the process of exercising power, lies in the relation between power and responsibility. The reason why identifying such an exercise involves the assumption that the exerciser(s) could have acted differently—and, where they are unaware of the consequences of their action or inaction, that they could have ascertained these—is that an attribution of power is at the same time an attribution of (partial or total) responsibility for certain consequences. The point, in other words, of locating power is to fix responsibility for the consequences held to flow from the action, or inaction, of certain specifiable agents. We cannot here enter into a discussion of the notion of responsibility (and the problems of identifying collective responsibility): it is no less problematic—and essentially contested—a notion that the other examined in this essay.\textsuperscript{394}

Key for Lukes is that power is not the ability to act differently, but rather that an actor “could have acted differently.”\textsuperscript{395} Not constraint, but choice. This condition is the equivalent of ‘could have acted otherwise.’ If one could have acted differently, then power was involved to shape how the actual sequence unfolded.\textsuperscript{396} Power can only be said to exist when it is possible to have responsibility in deciding and selected deciding between actualising possible worlds. Power exists only where free will exists, a point also made persuasively by Giddens in his own early discussions of power. In both instances I see Lukes and Giddens providing the basis for understanding a modal conception of power. If they are correct in their views, the exercise of power can be evaluated according to a normative moral quotient.

Lukes, in particular, makes clear that one understands a social order when we see it as but one possible outcome from other possible outcomes; that is when one understands that the same basic elements could have led to other kinds of societies. In other words a social order is never inevitable. I want to emphasis this point: Societies have a trajectory and complex mechanics, but these are historically contingent and constituted by power. Lukes attributes this line of thought to C. Wrights Mills and his distinction between fate and power. Mills held that a “sociological conception of fate”

\textsuperscript{394} Lukes, (2005) op cit. p57-58

\textsuperscript{395} Lukes, (2005) op cit. p57

\textsuperscript{396} This resonates with the general understanding of Frankfurt cases.
relied upon “events in history that are beyond the control of any circle or groups of men (1) compact enough to be identifiable, (2) powerful enough to decide with consequence, and (3) in a position to foresee the consequences and so to be held accountable for historical events.”

A substantive critique of this process requires a discussion of epistemological issues, for to claim that a person’s beliefs regarding their perceptions is mistaken or incomplete, one requires means to determine truth from falsehood, veracity from credence. One method is to create a theory of (social) science. It is outside the parameters of this thesis to become comment substantively on scientific techniques and how they relate to a theory of science per se. However, another means is to invoke naturalism to differentiate between institutional luck and hard luck as it relates to choice and chance. The prime benefit of this is that this discussion mostly keeps the discussion within the realm of humanism, and orientates a person to an assessment of their past fortunes as well as the quality of their prospects. As Lukes writes, “if we think of powerlessness as an injustice, rather than as bad luck or misfortune, is that not because we believe that there are those in a position to reduce or remedy it? [398] I want to consider this issue in greater detail in the following chapter, by engaging with what is often called the “inequality fallacy,” as a prelude to defending luck egalitarianism as a way of returning power and dignity to those whose bad hard luck is compounded by bad institutional luck.

398 Lukes, (2005) op cit. p68
Chapter 6.

The Inequality Fallacy and A Defence of Luck Egalitarianism

It can be jarring to jump from the often abstract realms of political philosophy and sociological theory to the seemingly more pragmatic realm of political economy—the economic and political realms that surround the lives of people living in real societies. But, it is only by doing this, that we can ground such abstractions in ways that contain suggestions for ameliorating the challenges of inequality outlined in the introduction of this dissertation. Recalling figures cited in the Introduction—the 10 Trillion Dollar Question—I contend that poverty and inequality are not due to a lack of productive capacities, but rather lay with the political economy of distribution. It is undisputable that the last half century has recorded unprecedented production of economic value and growth, with significant improvements in well-being and food security. Gregory Clark thinks the outline of world economic history supports this claim (see Figure 1.) Clark, G., (2007) A Farewell to Alms: A brief economic history of the world, Princeton: Princeton University Press Hobsbawn, E., (1994) The Age of Extremes: A History of the World, 1914-1991, New York: Pantheon Books, p.ix.
Figure 1. World Economic History according to Gregory Clark.
Note: “Incomes rose sharply in many countries after 1800 but declined in others.”

While there is some disagreement about precisely how this prosperity was produced, capitalism, at least the kind regulated and presided over by liberal democracy, has raised standards of living, as well as types of human opportunities, to previously inconceivable levels, and broadened them to the population at large, albeit at extreme environmental and human costs. As Robert Skidelsky notes, “capitalism is a superb system for overcoming scarcity. By organising production efficiently, and directing it to the pursuit of welfare rather than power, it has lifted a large part of the world out of poverty.”

Judged post-hoc one is likely to miss the significance of how this development has altered human practice and ethical considerations.

In this fashion, capitalism has acted in accordance with Marxist predictions of producing social goods and breaking unjust traditional societies. Still, as Marx also understood, capitalism is also rife with endemic inequalities, exploitation, and alienation, plus it is a system marked by a recurrent tendency toward crises. On this point, Paul Samuelson writes, “The whole history of capitalism has had up-bubbles in real estate

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and down-bubbles after something different.” These bubbles have caused significant harm to persons. Nor, despite Simon Kuznet’s famous argument that “income inequality would automatically decrease in advanced phases of capitalist development, regardless of economic policy choices or other differences between countries, until eventually it stabilized at an acceptable level,” has higher economic growth automatically reduced poverty or inequality. So, despite the rewards of capitalism, to put it mildly, the dividends of this growth are uneven and not fairly distributed. Contrary to 1950’s manta, growth has not been a tide that lifts all boats. This is a point now made routinely by people other than Marxists. Capitalism has a built in tendency to skew wealth towards a power elite.

This addresses the broad political question of how persons face the personal and economic risks that influence their lives. Of late this has been brought up in the United States with debates around health and medical risks regarding provision and payment, but it also speaks to workers quality of life in retirement, whether these are government guaranteed, or fixed to market returns. Again, as the last chapter made clear, this discussion is historically attuned to the changing nature of risks vis-à-vis technical and economic investments. This is a pressing question if we keep in mind Polanyi’s observation that most persons must labour within capitalism or otherwise perish, while still being subject to the verities forces of capitalism.

At great generalization, the liberal experience has understood accepting personal risks as a function of personhood, but has also complimented that sentiment with the collective sharing and management of risk to enable persons to have greater agency and autonomy. My goal in this final chapter is to examine the thought behind the inclination or disinclination to use institutional means to collectivise risk and bad luck.

403 Ibid, p11
U.S. Inequality: The Wright-Brighouse Thesis

To develop this analysis it is necessary to return to the issue of poverty. Even in highly developed countries a near third of persons live in relative poverty. In a well-popularised case, New York City has the same levels of inequality as Swaziland. The problem then is not of absolute deprivation, but of relative deprivation. So we need to be cautious here: Widening inequality does not necessarily mean the decline of living standards. Presuming so is to make the inequality fallacy. This is the erroneous belief that widening inequality requires a decline in living standards.

Erik Olin Wright and Harry Brighouse have gone to great lengths to dispel this fallacy. They press home the point that by examining consumption figures, one can see people have improved their standards of living; and indeed that this consumption has gone towards making fairly durable investments which have improved their lives and productive and reproductive capacities. As they write,

If you take virtually any list of consumer durables—refrigerators, TVs, cars, indoor toilets, air conditioners, etc.—the percentage of people in the bottom 20 percent of the income distribution who own these things has increased significantly over the past thirty years.

Further, square footage living space has increased; same with life expectancy across all income brackets. Lastly, “if one measures per capita income in households (rather than individuals wages or even per household income), it has risen significantly even at the bottom of the income distribution since family size has declined.” One therefore has to acknowledge substantial economic development arising from capitalism.

Wright and Brighouse’s data demonstrates why there is some difficulty in making the popular case for the badness of inequality in the United States: It is difficult to demonstrate the social problems of certain types of inequality if standards of living have improved. Further, it becomes difficult to solicit sympathy and attention to the problem. An argument on the badness of inequality then has to present itself in terms of un-due

differentials and fairness, as opposed to minimally acceptable standards of living, or the changing pattern of income.\textsuperscript{405}

Additionally, Wright and Brighouse collected data on occupation growth and decline. Ordinarily radical accounts attribute turbulence in the American labour market to transformations in economic practice such as the dismantling and offshoring of manufacturing bases. This is said to reap large swaths of occupations leaving people unemployed and surviving on precious incomes indentured to corporate strategy. As they write, “The iconic image is of the reduction of employment in the steel and auto-industries and the expansion of fast-food employment.”\textsuperscript{406} In contrast Wright and Brighouse show that if one surveys the national labour force, the distribution of median earnings of job types indicate that there is polarization between the best and worse deciles, but also that the top three deciles account for nearly half of the net expansion of jobs.

Daron Acemoglus and David Autor’s research broadly agree with this analysis, adding that “Starting in the past two decades, earnings growth has become increasingly nonmonotone in skill and wage levels, with more rapid growth at the upper and (surprisingly) lower deciles of the wage distribution than at the median.”\textsuperscript{407} This is matched by job polarization, which they mean “the simultaneous growth of employment

\textsuperscript{405} Some caveats: Erik Olin Wright and Harry Brighouse do not claim that income inequality helped raise living conditions for those at the bottom, nor do they morally condone the increasing inequality. Regarding gender inequality, this is perhaps one area where inequality has not spiked across categories. The earnings gap between men and women has decreased, while workplace gender segregation has declined. This holds for higher management positions as well. Such improvements have occurred, that Anna-Marie Slaughter now asks “can women have it all?” So there is weak evidence for a real glass ceiling. It seems, at least, that for equality of opportunity for gender at least is a nearly universally accepted principle, even if sometimes poorly executed particularly with vulnerable populations working in shadow economies and poorly monitored workplaces.


in high skill, high wage occupations and low skill, low wage occupations.\textsuperscript{408} Altogether this means that “rapid employment growth in both high and low education jobs” has substantially reduced the share of employment accounted for by “middle skill” jobs. In 1979, the four middle skill occupations—sales, office and administrative workers, production workers, and operatives—accounted for 58.9 percent of employment. In 2007, this number was 47.5 percent, and in 2010, it was 44.5 percent.\textsuperscript{409}

Wright and Brighouse show that neat polemic attacks of contemporary developments do not suitably account for the complexity found in the economy:

The fact that inequality is deepening along with (i) a fairly broad-based increase in material standards of living of most people, including a significant segment of the people in the bottom deciles of the earnings distribution, (ii) declines in gender inequality, and (iii) a change in the job structure characterized by polarization plus substantial expansion of employment opportunities in the third top of the employment structure, makes such mobilization more difficult. These features of the transformation of economic conditions are not illusions, and they must be taken into consideration in our thinking about the egalitarian project.\textsuperscript{410}

What the Wright-Brighouse thesis tells us is that one must pay close attention to the structural allocation of dividends as they come to pattern inequality.

**Conservative Attitudes to Inequality**

This though, has not been the prevailing view in US public policy discourse. Greg Mankiw, Former Chairman of the Council of Economic Advisers in the George W Bush Administration, has attempted to provide an ethical justification condoning social inequality.\textsuperscript{411} He downplays the extent to which the 1%’s income is an unfair by-product of market imperfections: “In the standard competitive labour market,” he writes “a

\textsuperscript{408} Ibid
\textsuperscript{409} Ibid
\textsuperscript{410} Brighouse and Wright (2002) \textit{op cit}
person’s earnings equal the value of his or her marginal productivity.”\textsuperscript{412} Next, he proposes a naïve version of Just Deserts: “people should receive compensation congruent with their contributions.” These contributions are valued according to a free market. The role of government is to provide basic public goods while pressing the social world into this mould, not to confiscate a person’s just income even if it is endorsed by majoritarianism.

There are several problems with this position. First, this line of reasoning misconstrues value as simply price. Even if one were to concede to his general terrain, and one should not, some people’s contributions cannot be valued by prices or fees alone, or by price or fees at all. Significantly, Mankiw fails to appreciate the extent to which a person can contribute is colored by both institutional and hard luck: Most of the factors that determine what is considered a marginal contribution are outside the realm of a person’s control or attributes. These include fluctuations in a product’s prices, the changing structure of demand, weather’s role on harvests, and technological developments. So it is unnecessarily disembedded from a social setting.

In addition to this category error, this kind of analysis fails to acknowledge the class struggle over surplus value. Even being generous, contracts regarding labour fees and prices are always—because they are made between unequal parties—tainted by capital’s coercion. Thus labour’s settlements are made begrudgingly and not fairly. Furthermore, and without wishing to digress into a treatise on state theory, governments tend to pursue their own interests; and turn to assist labour or capital if and when they need support for their causes. Subsequently Mankiw does not have a realistic appraisal of the role of government. Overall, his reasoning errs even within his own framework. The theory of marginal productivity does not constitute a theory of just deserts.

A somewhat more grounded discussion of inequality is presented by Claudia Golden and Lawrence Katz.\textsuperscript{413} Their work represents the conventional understanding of

\textsuperscript{412} Ibid, p30

inequality whereby it is the result of a ‘race between education and technology.’ They write:

That the twentieth century was both the American Century and the Human Capital Century is no accident. Economic growth in the modern period requires educated workers, managers, entrepreneurs, and citizens. Modern technologies must be invented, innovated, put in place, and maintained. They must have capable workers at the helm.  

They attribute this to American “exceptionalism.” What they mean is intentional institutional intervention to use education to create human capital. They write that

By the early twentieth century America educated its youth to a far greater extent than did most, if not every, European country. Secondary schools in America were free and generally accessible, whereas they were costly and often inaccessible in most of Europe. Even by the 1930s America was virtually alone in providing universally free and accessible secondary schools.  

This “flexible and multifaceted higher education system” was suitable for much of the early 20th century, but was unable to adapt to late 20th century labour demands. For the 21st century Goldin and Katz argue that technological change will require ever more skilled labour, in turn creating an earnings gap between skilled and unskilled workers. The solution to inequality is increasing the supply of skilled workers.

Daron Acemoglus and David Autor object to this narrative. They note that Goldin and Katz neglect the extent to which educational ‘exceptionalism’ arose because democratically inclined local populations successfully resisted elite designs, thereby overlooking how political contention and resistance created the diverse and plural educational institutions they celebrate. They also note how presently, the various levels of US government invests more into the rich’s education than poor’s, despite some

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studies indicating that elite education adds little to no value to nonelites. This is unlikely to change if the rich continue to marginalise the poor.

Contrary to Mankiw and Goldin and Katz, John Marsh’s study of the United States economy and higher education deflates the promissory potential of education as a luck neutralizing policy tool. Applying his sharp eye and close reading skills to education econometrics Marsh demonstrates how the consensus on higher education is a confluence of the various forces that avoid public engagement over the role of class in determining the allocation and quality of life chances. Instead, most stakeholders obsessively concentrate on the efficacy of education at the expense of examining the differentials of, and interest in, economic power. Even well-regarded economic commentators believe “outsourcing, immigration and the gains of the super rich…are diversions from the main issue [which is] largely one of (a lack of) education.” The consensus is that inequality is the by-product of poorly formed, or executed, policy.

Any doubts of this consensus are quickly brushed aside by pragmatic politics. Despite the hostile antagonistic impasse that is formal American politics, all parties agree that higher education is vital to growth and prosperity. Here the university system is regarded as being reasonably democratic (relatively accessible) and reasonably meritocratic (a four year ranking). This provides just enough to satisfy all; conservatives, because it provides justification to not support those that fail; and progressives because it provides access to opportunity that can overcome starting gate inequality. The arrangement therefore permits inequalities for which you are said to be responsible. But this is too vulnerable to moral luck, and is perhaps the worst version of luck-egalitarianism for it fails to address the actual prospects for success, which for those familiar with Marc Bousquet’s book, How the University Works, will know is unlikely for

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students when the system is rigged. Indeed this demonstrates capitalism’s tendency to cast luck and fortune as fate.

Marsh proceeds to show that when structural issues are discussed in educational policy, it is often under a neutral technocratic rubric of matching teaching to economic needs. The current thought in education policy is that the university system should provide workplace preparation through professional degree programs, the cost of which is borne by the individual themselves as businesses are unwilling to carry the costs of vocational training. Given that high school attempts to develop a well-rounded learner capable of functioning within the society, but that the new economy requires hyper specialized knowledge and skills, universities have been tasked to signal that the person is vocationally competent. The proliferation in professional master programs is testament to this process. Rather, he plainly points out that vocational training as a means to economic mobility is misplaced because that path soon becomes bottlenecked as everyone attempts to take that route. To quote Marsh “The US economy, despite claims to the contrary, will continue to produce more jobs that do not require a college degree than jobs that do. A college degree will not make those jobs pay any more than the pittance they currently do.” This sentiment is neatly expressed when he writes that “A PhD working as a bartender earns bartender wages, not a professor’s salary.” One might add, this bartender would be burdened by enormous student debt which greatly hinders their chances of upward economic mobility. As his analysis applies to prospects for equitable social change, he thinks this burden of hope is too much for education alone to carry.

**Piketty’s Capital**

In Mankiw, Goldin and Katz’s case inequality is considered harmful only to the extent to which it destabilises growth, investments, and suitable conditions for the reproduction of capital. But this is a morally shallow treatment of harms of inequality, and prematurely brackets off the extent to which capitalism is itself to blame for the inequality

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with which they are concerned. Building upon research on tax return he previously did with Emmanuel Saez, Thomas Piketty provides a long view of the changing shape of income distribution and exploitation. One element traces the already well-known relative rise and fall of incomes over time, and their political influences thereof, ranging from unionization to re-regulatory exercises. The highlight is that since 1980 the 1% share of income has doubled, the 0.1% share has tripled, and the 0.01% share has quadrupled; Piketty statistically shows how money begets money and the rich get richer.

In his review of Piketty’s research, David Harvey makes it abundantly clear that this finding demolishes the widely-held view that free market capitalism spreads the wealth around and that it is the great bulwark for the defense of individual liberties and freedoms. Free-market capitalism, in the absence of any major redistributive interventions on the part of the state, Piketty shows, produces anti-democratic oligarchies.

In summary, Piketty has three main findings. Firstly, that the return on capital is higher than the growth of income; the notable r>g phenomenon, a “process by which wealth is accumulated and distributed.” Put another way, the determinants of inequality and the concentration of wealth are that returns on assets exceed the growth rate. This is not some “market imperfection,” Piketty argues, conversely “the more perfect the capital market (in the economist’s sense), the more likely r is to be greater than g.” So the share of global wealth held by a tiny fraction of the population rises much more rapidly than average global incomes. Similarly, retirees’ pension plans accumulate at the rate of assets. All of this factors into the flow of inheritances, a kind of distribution of assets through time, that further exacerbates the concentration of wealth. There are demographic changes that Piketty does not address, such as declining birth rates amongst the wealthy that compound the concentration of wealth.

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His second finding is that returns have always been higher than growth, resulting in ever-greater levels of inequality. This is why capitalism is considered a system of rentiership. Capital tends throughout its history to produce ever-greater levels of inequality. Lastly, Piketty argues that the reason why the gini coefficient in advanced western countries was not as high as the Gilded Age was because of several decades of strong sustained growth in the post-war period that managed to decrease the r>g ratio. However, with growth rates slowing, and the changing shape of the economy (a jobless recovery post-recession and so on), these last two findings suggest that capitalism will return to its nineteenth century form of dynastic wealth. His projection is that slowing growth rate may reveal a tendency in capitalism to a r>g ratio of near 700%. This ratio was the norm from 1700 to 2012, and deviations—particularly in the post-war period—are exceptions.

Piketty’s policy prescriptions are akin to those of an ordinary social democrat; that being advocating for social protections and public investment into public goods. Even famed calls to return the taxes of 80% on annual incomes over $1 million neglects that this system was fraught with loopholes. With more advanced techniques for laundering money developed since then, returning to these rates will not adequately address the problem Piketty has identified. If the problem is that the rate of return on private assets is too high, then it would more desirable to lower this rate by raising minimum wages, supporting unionization and collective bargaining, and including dividend yields as personal capital gains. These actions would lower the return on investments that exploit labour. Other options range from the creation of public leaders and savings accounts to the enforcement of anti-trust laws to break up cartels and collusions.

Piketty’s work additionally suggests extending estate tax, not as a source of state revenue nor to directly hamper outsized fortunes, but, rather, to block the formation of family dynasties. As a subsidiary benefit, an estate tax tends to foster conspicuous philanthropy that directs wealth to public and social goods. In that way it helps fund civil

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423 Ibid, p196
424 Ibid, p13
society and the workers whose services seek to advocate and improve public life in one way or another, improve standards of living, as well as provide some employment.

While some on the radical left tend to hold that social security is a tool of social control, this view is historically impoverished: social protections were invented by workers and unions when they established mutual societies to protect themselves from the misfortune born of the market. This was particularly important when the franchise had a property qualification. When this became institutionalised, it provided a social property buttress to private property thereby supporting newly enfranchised workers to organise as citizens, and in this way was a tangible outcome of the ‘double movement’ to reconfigure power relations between capital and labour.

So these findings underscore that the development of inequality is completely about political choices, and nods towards an understanding of the economy that is grounded in conflicting social relationships, and thus historically specific. For this reason, conservative respondents have complained that the data are incomplete and thus flawed: “not everyone files a tax return, not all income is taxable,” as one commenter put it. Fair enough, but these trite quibbles are not refutations. They are so minor to be inconsequential and harmless to the overall analysis, besides which they are unrelated to the argument that extreme social inequalities are matters of power differentials. To use other more suitable language, they are the by-product of politics in a class society.

This gets to heart of the matter. Conservative are playing empirical skeptics in an effort to discredit Pickety’s work while advancing alternative explanations. These explanations are meant to move the issue away from curbing inequality. This is because they do not agree with, or care that, the concentration of wealth and oligarchy is a normatively harmful thing. For example, in a review of Piketty, Tyler Cowen attacks the global wealth tax proposal with the following proclamation: “The simple fact is that large wealth taxes do not mesh well with the norms and practices required by a successful

and prosperous capitalist democracy." But Cowen uses this straw man to flaunt his certitude and in so demonstrates how Conservatives are attempting to refute an empirical finding by saying that they have a worldview which does not even permit the prospect of it being true. For if it were true—it compels government intervention to right these wrongs.

While giving him much credit for research, David Harvey thinks that Piketty’s argument “rests on a mistaken definition of capital,” and is thus “seriously flawed.” He explains: “Capital is a process not a thing. It is a process of circulation in which money is used to make more money often, but not exclusively through the exploitation of labor power.” Marx defined capital as the means of control of the means of production by the dominant class. It is a kind of power regarding the presumed right to make decision about and to extract surplus value from the worker. Marx also views capital as necessarily dynamic, constantly promoting an ongoing revolution of its own means of production in the pursuit of ever expanding value. By contrast, Piketty defines capital as the total of physical objects, including their potential to be traded irrespective of whether they are currently productive or not. He also excludes labour as a kind of capital. The difficulty here is how to determine the value of these things without it being a financial rendering of capital.

There is nothing incorrect with this definition per se, but what it does do, Harvey argues, in differing from the Marxist definition, is create a statistical regularity that “disguises more than it reveals about the class politics involved.” Harvey continues to add that ignoring the class conflicts gives Piketty no immediate way to see the political mechanics behind the decline in labour share of income since the 1970s through the imposition of the neoliberal agenda. Nor how driving down of wages meant that expanded credit and mortgages were required to finance demand, and how this factored into the 2008 recession. In short, Harvey charges Piketty of not fully appreciating the power struggle between capital and labour, nor how capital has successfully reduced the strength of the working classes despite high growth rates in the post war period.


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These are reasonable criticisms. However, I think Harvey offers an ungenerous critique of Piketty’s focus on inheritance. Given their purchasing power, the rich are able to raise their children in ways that near ensure that they will disproportionately become rich themselves. As Matt O’Brien’s summery of research makes clear, “poor kids who do everything right don’t do better than rich kids who do everything wrong.” This is because of the kind of advantage that accrues due to the benefits of intergenerational wealth which was accrued through exploitation of labour. In this respect, capitalists are reproducing a kind of latent capital, which when mobilised exacerbates inequalities. It is for this reason that Piketty points to the consequential problems of inequality if and when growth rates slow, as inherited wealth becomes a key mechanism the rich use in class struggle, in turn delimiting the kinds, quantity, and quality of opportunities for poor persons.

The Luck Egalitarian Debate

I want to build on this discussion of Picketty and Harvery by developing a defence of luck egalitarianism as an attempt to respond to the radical contingency of inheritance and the institutional structure created to sustain its political potency, all the while attempting to preserve the Kantian conception of rational agents responsible for their actions.

To begin this effort I turn to the work of Ronald Dworkin. Dworkin’s project was to pin down and clarify the contents of equality by distinguishing between equality of welfare and equality of resources. Welfare is generally understood to refer to the internal state of agents. This is variously expressed as happiness or preference satisfaction. Resources refer to things external to agents. Initially, equality of welfare


appears attractive; it seeks to equalise relative well-being, hoping in this way to promote human flourishing while respecting value pluralism. This is because different things and pursuits affect a person’s well-being differently. This is one way to specify an equal condition without stipulating the precise contents of such a condition. This conception is similar to the priority of the right but with an egalitarian tint. In Rawls’s basic structure, it would mean improving those least advantaged to achieve their desired well-being. Other benefits of this position include the emphasis on what matters to a person and how well they fare. In contrast, equality of resources is simply the means to achieve certain levels of welfare, and therefore pay insufficient attention to potential unequal welfare outcomes that similar resources provide.

As an example, consider income. It is desirable because it allows people to seek a certain well-being or level of comfort; but equalizing income seems to confuse the means to achieve equality, with the ends of equality. Income is not the experience of equality – the desirability of comfort – but simply a means to achieve a certain state of affairs. Welfarists ask, it is the state of affairs that we would want to equalize, not the means to achieve that state. People might be in different states, such as a person with a disability who may be wheelchair bound. Their reasonable income might be inadequate to pay for their medical needs. Or most of their income spent maintaining their wheelchair, thereby leaving less disposable income to achieve a certain level of welfare comparatively. They had less opportunity, represented here by potential expenditure, to achieve an equivalent state of affairs. This position seems to motivate a movement away from the identification of primary goods, and move to an assessment of well-being which takes the form of preference satisfaction.

Rawls’ difference principle is not concerned with how persons came to be the least advantaged, only that they are so. Furthermore, Rawls argues that they should be given priority regardless of the reason for their position; that is persons should be given goods regardless of their poor choices. Dworkin disagrees because such a redistributive orientation subsidizes and does not hold free riders accountable for their choices, tastes
and preferences.\textsuperscript{430} It is thus unfair to the other members of society who have to carry these costs. Dworkin rejects equality of welfare because he does not want to pick up the tab for the bad choices made by others. Rather, he maintains that if we are to understand people as being equal as moral agents, we should also hold people accountable for being moral agents.

This argument is sharpest when considering the problem of expensive tastes. As one example, a welfarist would compensate both the person in a wheelchair as well as those who have deliberately acquired expensive tastes. But this seems counter intuitive. “Imagine that a particular society has managed to achieve equality of welfare,” Dworkin writes,

Now suppose that someone (Louis) sets out deliberately to cultivate some taste or ambition he does not now have, but which will be expensive in the sense that once it has been cultivated he will not have as much welfare…as he had before unless he acquires more wealth.\textsuperscript{431}

Compensating Louis for his deliberately acquired expensive tastes diminishes the resources available to improve the welfare of others, such as those who have the misfortune of being wheelchair bound. In short, there is an opportunity cost of improving the welfare of others who have more reasonable needs and wants when compensating for deliberately acquired expensive tastes. In many respects, Dworkin wants to police the boundary between needs, wants, and excessive wants.

As an alternative to welfare, Dworkin refocuses on the equality of resources. He believes this can best confront the question of responsibility as a means to assess compensation for activities in an egalitarian society. Here one would not compensate the least advantaged by virtue of their position as the least advantaged. Rather, one should enquire as to how these persons become the least advantaged. If these forces were beyond their control, then they would require compensation and efforts to improve their position, and make them as advantaged as others in the society. If their position is due


\textsuperscript{431} see Dworkin, R. (1985) \textit{A Matter of Principle} Oxford: Oxford University Press, pp206-208
to their deliberate poor choices then we have less of a duty to compensate them: it is asked whether it is fair to tax hard-working others to benefit those that choose not to work?

To demark responsibility, Dworkin distinguishes between ambitions and endowments. Dworkin acknowledges that some, if not many, of our endowments—talents, pre-dispositions and the like—are not of our own making. They are contingent features of persons and so we cannot claim responsibility for them. Dworkin thinks that intervention is required to modify the effects of bad luck, or poor natural endowments. Dworkin calls this ‘brute luck.’ It is luck independent of our own responsibility. He contrasts this to ‘option luck,’ which is of our making. Persons can be subject to good and bad brute luck, as well as good or bad option luck. Dworkin wishes to compensate persons who are subject to bad brute luck, diminish the claims of persons to the products of their good brute luck, let persons carry the costs of their bad option luck, and let persons keep the rewards of good option luck.

To compensate people for their bad brute luck Dworkin’s proposes social insurance, such as a handicap insurance or a underemployment insurance. Handicap insurance would use the market to assess the costs of various handicaps. Underemployment insurance would use the market to assess the costs of arbitrary economic developments to compensate those whose skills are not presently in demand. These insurances could be incorporated into a Rawlsian basic structure. Here, the insurance can be decided behind the veil, while keeping in mind the possibility that a person might run the risk of being the least advantaged as well as the possibility of needing to use the insurance periodically.

The primary aim of these insurances would be to convert brute luck to option luck. By way of example, suppose that by pure bad brute luck my house burnt down. Such an outcome is unfortunate, but part of my misfortune may be because I declined to insure my property assuming cost effective and administrative simple policies were available. Extrapolating from Dworkin’s argument, if insurance was genuinely available, but I opted out, and the misfortune occurred, then there is no reason for an egalitarian society to subsidize my claims. This luck neutralizing position tolerates inequalities
resultant from voluntary acts. In this case subsidization is not a matter of fundamental political justice. And if there was any subsidization, it would be from the virtuous character of society, not the demands of justice.

Dworkin’s proposal requires an initial equal distribution of resources and then allows people to make the choices they see fit, keeping the relevant risks in mind. But before dealing with those issues, Dworkin’s idea of distribution involves the use of a frictionless hypothetical auction in which people are given equal means to bid for items. Bracketing aside the problems of auctions, Dworkin believes that by the end of the auction, everyone will have a bundle of resources. This distribution will be fair if all persons at the auction leave satisfied with their bundle. Dworkin calls this the envy test for equality because no one would prefer another’s bundle. If there is some envy, then that person could have bid for an item or resources themselves. This proposal retains Dworkin’s belief that responsibility matters, and that person should be held responsible for the things they do and do not do.

There are some practical difficulties that raise serious problems with this proposal. First, the envy test is a necessary, but not sufficient, condition of equality. Consider that the envy test can be satisfied under conditions where persons are not equal. I might have less wealth than someone else, but because I am pursuing my interests relatively unhindered, I consider myself satisfied and so do not envy that particular person. But say their wealth and disproportionate influence over the political process comes directly from exploiting me. This is not really fair, for while I might not envy them, and I am relatively satisfied for the moment, they have a greater degree of control over my life. Their ambitions direct my endowments and so can put me into positions where I would be vulnerable to bad luck.

Furthermore, there are questions regarding what to do with new members; for instance, is distribution a once off event, are intergenerational problems included and so

432 The envy test is important in another way, in that Inequalities due to brute luck fail the envy test, those due to option luck do not. Why? The risks chosen are included in the bundles that are compared in the envy test. see Dworkin, R. (1985) A Matter of Principle Oxford: Oxford University Press
Further, Dworkin overlooks that he is not describing an auction, but rather a warehouse with lots of goods. An auction has scarcity, and not meeting demands can create envy. If I do not receive any of the first choice items I bid on I would be envious of others who did receive their first choices, even if they bid on bundles that are of no interest to me. In short, some states of happiness or some satisfaction of preferences cannot be made without retarding the wellbeing of others.

A further objection to Dworkin is that he places considerable weight on responsibility. But for instance, even if a person is responsible for their adverse position, there are grounds for compassion and possible assistance by providing resources. What I mean is there are many good reasons to improve the lot of the least advantaged that are not discouraged by self-created adversity.

If Dworkin wants us to explore the means by which persons came to be least advantaged, then we can invoke radical contingency to note that even notions of responsibility are contingent on factors. For instance, my inability to reason well might be due to the lack of vital early childhood nutrition, hence crippling and influencing all the choices I make and some of which have lead me to become one of the least advantaged members of the society. Dworkin has to concede that a person’s standing and actions as moral agents are subject to radical contingency.

Richard Arneson believes Dworkin’s argument against expensive tastes is confused. Recall that the objection to Louis was that he could have achieved a similar level of welfare but at lower cost. Louis’s deliberately cultivated expensive tastes are thus an unfair burden on, and diminish the opportunities of, others. Arneson argues this conclusion is only valid if one confines the analysis to the resource/welfare dimension. If one incorporates an outcome/opportunity dimension the conclusion is no longer the same. Supposing a fixed resource allocation, if Louis uses his allocation to satisfy his preference for deliberately cultivated expensive tastes, but squanders his allocation before reaching the same state of welfare of those that choose to use their allocations to

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satisfy less expensive tastes, then that is his problem. Louis had the equality of opportunity to achieve a certain level of welfare, but he chose not to pursue this course. Therefore, there is no requirement for us to compensate him. However, suppose that Louis was born through no fault of his own with expensive tastes. To differentiate this condition, let us call this Louis\(^1\). Here any allocation of resources that falls short of being able to meet such pre-existing tastes would be to deprive Louis\(^1\) of meeting his welfare relative to others. This provides the rough outline of a case to compensate Louis\(^1\). This argument uses radical contingency to move responsibility for expensive tastes away from Louis\(^1\) and simply acknowledge that that is the way things are.

Louis\(^1\) condition and requirements seem to be counter-intuitive, perhaps even unacceptable, to egalitarianism principles. For this reason, Arneson argues that egalitarians discard the resource/welfare dimension and instead focus on the approach of advancing “equality of opportunity for welfare.” This approach relies upon a conscientious control principle—people can only deserve what they are in a position to control. Further, the equality sought after is where persons have equally good options and prospects to satisfy their welfare. According to this metric, deliberately acquired expensive tastes should not be compensated, while innate expensive tastes would at least be given a due prospect of being satisfied. What is important is not whether Louis, or Louis\(^1\) welfare was satisfied, but whether they had a realistic option of being satisfied – were their prospects as equally good as others. Options and prospects requires resources, therefore the welfare/resource divide is not as clean as some might think.

Arneson’s important contribution is to show that the welfare/resource divide cannot be easily separated. And that one should rather attend to prospects of welfare, as opposed to whether welfare was achieved. The difficulty, however, of this position is that it neglects that some desired state of social outcome is the aim of egalitarian thought. The promotion of this at the expense of an assessment of outcome does not attend to how quickly prospects can radically change. For example, consider a recent graduate’s job-prospects. She might have a skill-set, but given that no one knows what the future might hold, it becomes difficult to say anything meaningful about her long-term prospects. Given the nature of the economy, it could well be the case that in the near
future her skill-set is redundant. For this reason, equality of prospects cannot be the single overriding factor, because prospects are not fully under the control of a person.

Cohen agrees with Dworkin's arguments against strong welfarism as it licences the transfer of resources from the very cheerful poor to the miserable wealthy. However, he states that Dworkin is incorrect when endorsing a strong resource approach. This is because it cannot assess and compensate people for the pain and suffering caused by their burdens.

Instead, Cohen claims that an adequate theory of equality must be based on equalising advantage, thereby cutting off the stuck in the mud debate over the priority between welfare and resources. He calls his approach a principle of “equality of access to advantage.” He understands it to be a “heterogeneous collection of desirable states.” This is a state of consciousness knowing that you have as much going in your favour as someone else. This relieves the burden of worry, and attempts to do so by the satisfaction of preferences “to the extent that equalisation is defensible, welfare is the right thing to Equalise.”

Like Dworkin, Cohen seeks a metric that minimises brute luck on the distribution of asset bases. However, this leads him to attend to welfare as opposed to resources, since brute bad or good luck can intervene in how a person comes to make use of their resource allocation. Despite best efforts, equalising resource allocations is prone to brute luck. What remains is a weak welfarist approach that can be obtained through access to advantage. Access to advantage also goes beyond the weak welfarism. What I mean by this is welfare is understood purely subjectively. The access to advantage is not interested in whether advantages are perceived or genuine, but rather that there is a no sense of injustice or undue advantage. This allows compensations to be made for inequality due to individuals’ unchosen, or not wholly chosen, tastes and temperaments.

Again, like Dworkin, Cohen does not compensate for inequalities in advantages that result from freely chosen decisions or risks. This requires that one can distinguish

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between benefits and burdens that are chosen and those that are not. In part, this is articulated as desert – persons do not deserve the benefits of certain advantages, or persons do not deserve the burdens of certain disadvantages, but they do deserve the consequences of freely made choices. In practice, this is difficult boundary policing. Consider that conditions influence choice making capacities. Some people are poor decision markers due to no fault of their own. They might have diminished capacities, poor role models, little education, or live in a sub-culture that discourages thoughts about consequences. It seems harsh to say that these persons deserve what comes to them. Even Rawls acknowledges that persons need good information to make good decisions. In this respect we should not be preoccupied with bad choices, but rather with efforts to create conditions where people are encouraged to enhance their choice-making capacity with the resources at their disposal, while nevertheless picking up some of the costs for poor choices.

I will follow up on the above line of argument in the next section. In the meantime I shall briefly attend to Thomas Scanlon’s objections to Cohen’s argument. Scanlon says that just distribution by equality should not be based on subjective criteria, but instead should discriminate between the important and the unimportant. I might feel slighted, but this is not grounds for compensation and additional access to advantage. Projects are not valued well because they are ours, but rather due to some independent reason. Access to advantage needs to go beyond preferences and should be based on reasonable grounds to determine the type and degree of advantage required to make things good. This requires one to assess a person’s condition as opposed to their holdings, and their responses to their holdings and conditions.

There are good objections to Cohen. That said his proposal that equality is not just about the distribution of items, whether they be welfare or resources, advantages and capabilities, but rather the attitude informing the choice to distribute items is reasonable. This understanding of equality is rooted in people being wilfully concerned for the welfare of other, so much so that they willing to provide the means to means these other’s needs. Equality is in part the desire to see the improvement of others and the diminishing of inequalities, irrespective of whether they are due or undue. It is the desire to see humans flourish. From this vantage, equality is a voluntary act to burden
oneself with the responsibility to bring the good into being. As I have presented it, being about economic equality is a freely chosen responsibility provided but those who are in a position to provide to those who need provisions.

**Luck Skepticism**

To reiterate, luck egalitarians claim that persons deserve to bear the full responsibility of all external costs of their choices. Luck skeptics counter-claim that this can have unappealing results and offer a critique that has four primary lines. I will lay these out before offering a response.

The first criticism is to say luck egalitarianism’s policy recommendations are unwieldy, hyperbolic and even vindictive. It is presumed that to eliminate the differential effects of luck on the distribution of advantage would require micro-managerial interventions that would diminish freedom and liberty, particularly around matters that are unchosen. Moreover, this intervention would segment persons according to a desert criterion, with some designated as deserving, and others designated as simply vessels of fortune. In this respect, it neglects that persons have a moral personality that directs their self-realization efforts, with these same efforts relying upon their contingent features. Removing these items from consideration would be to hamper their agency.

A second objection raised by luck skeptics is focuses on a concern about making those with talents the keepers of those without. This, the argument runs, is a kind of talent slavery. The presumption supporting this position is that being talented is a result of accumulated advantage, therefore, redistribution of justice as fairness principles requires that the talented are taxed to support the involuntarily untalented. Furthermore, those who could be talented but choose not to maximally pursue their opportunities and the voluntarily untalented have no grounds for institutional support. This is because hypothetically they could have thrived if they made the most of their abilities. In this respect, those with talents have to pursue maximizing courses of action, not voluntary courses of action. However, this is the important point to note: As luck contributes considerably to what is or is not a talent, the talented, by virtue of their luck and not their choice, are in effect actually forced to labour for the social amelioration of others. Put
another way, eliminating disadvantages which result from the bad luck of being involuntarily untalented comes at the expense of those who have the (mis)fortune of being advantaged. This can fragment political solidarity by creating resentment. Anderson says this is because, it “effectively dictates [to people] the appropriate uses of their freedom.” Not to put too fine a point on it but effectively talented persons become subordinated to collective goals. This is an unappealing prospect for proponents of liberty and those who endorse a community of equal agents. Avoiding talent slavery supposedly requires stepping off a rigorous responsibility-tracking ideal, which in turn purportedly devastates the entire theoretical exercise.

Yet another objection is that because luck egalitarianism is too actuarial it is insufficiently political. What I mean is that it can be preoccupied with redistributitional precision at the expense of cultivating a character of a society of equals who broadly share a political project. This roughly means that luck egalitarians have turned their back on core egalitarian principles such as non-subordination and collective life. Critics have a deeper objection, which is that the preoccupation with assessing fortune and finding technical mechanisms to ameliorate bad luck has come at the expense of equality’s traditional goals and political character. Attention to luck and its incumbent metaphysics come at the expense of more concrete categorical and intersectional concerns of race, class, and gender. In this way luck egalitarianism does not seem sympathetic to traditional egalitarian political engagements regarding institutional oppression. Relational equality—a long standing concern, present in the arguments of R.H. Tawney, and carried forward by Michael Walzer, and David Miller—is absent, replaced by a highly individuated conception of equality.

A final objection is that luck egalitarian policies are humiliating and come at the expense of dignity. This is because such policies make some persons responsible for their poor circumstances, while those same poor circumstances for others are designated as all but bad luck. The latter set of claimants is eligible for welfare, while the former set are not. Jonathan Wolff argues this assessment requires persons “to

formulate the thought and then claim that [they are] talentless,” who are “failur[es], unable to gain employment even when there is no difficulty for others.” Given that work is central to the social project, admitting talentlessness and an inability to contribution to the social product would attract prejudice and unwanted attention. In this view, the working poor therefore must claim that they are involuntarily untalented. Accordingly, they are ineligible and unentitled, thus is their destitution and exploitation is acceptable. Herein the metaphysics of choice and action are used to justify burdens.

Uniting these four criticisms is the argument that luck egalitarianism retreats from a radical political orientation and thus is insufficiently anti-capitalist. Here, luck egalitarianism is presumed to be too mechanical, too actuarial, too preoccupied with rigorous specifications so as to be unable to gain practical political traction for egalitarian political goals; and, if anything, unnecessarily divides people who are deserving of their respective fates. To critics, these objections cast luck egalitarianism as an untenable mode of redistribution. Rendering egalitarianism as a technical philosophical exercise hollows out the political urgency. Luck egalitarianism does not confront the market square on, but skirts the issue, thereby failing to address how capitalist means of rule create and perpetuate inequalities.

In sum, the presumed challenge to luck egalitarianism is that it fails to treat all citizens as members of a collective enterprise who share in and are affected by the fortune of others while treating them as sole bearers of the consequences of their choices. This neglects the deeper political vision of equality that a technical rendering of contingency and chance cannot provide. Rather than making some outcomes and some claimants responsible for their bad outcomes, while attributing others to bad luck, critics claim that a better alternative is to end oppression, domination, and exploitation.436

A Defense of Luck Neutralization

Luck skeptics chastise those who put stock in ‘luck based explanations.’ They suggest that the explanation is reductive with respect to known, or could be known, complex causal sequences. But these skeptics miss that much of the human condition is deeply shaped by radical contingency. Conversely, there exist those who think there is nothing but luck. But this too seems to concede too much to temperamental forces and skips over the labour persons do themselves. In this light, I offer a defence of luck neutralisation by pointing out how the errors in the luck deflators’ position misconstrue the idea of luck neutralisation.

First, proponents of “talent slavery” confuse ‘talent’ with ‘market price.’ A person can command a price for skills irrespective of the inherent value of those skills. Some persons are fortunate to live in a kind of society where they can command high fees, whereas if they lived in another society their skills may well no longer be required, no matter how refined or developed they happen to be. Similarly, in contemporary capitalism, certain kinds of people are talented, but they may not be considered talented in another kind of economic order. Luck egalitarianism emphasizes not only the radical contingency of skills but also the radical contingency of the labour market in which these skills reside.

While a person can take pride in his or her skills, and should take satisfaction in refining them, this has little to do with assessments of personal worth vis-à-vis the presence of talents or lack thereof. In other words, being able to command high fees for having talents is not an item for boasting, nor is being unable to command high fees for talents an item for shame. Daniel Markovits crisply captures this point: “Talent may be nothing more than the skill of satisfying the baser instincts of others, and talentlessness may be caused by the failure of others to value skills that are truly good.” Indeed many talents are little more than being able to satisfy the beck and call of the rich. A more even distribution of wealth would erase certain kinds of talents.

437 Markovits (2008) op. cit.
Furthermore, merely because a skill cannot command a particularly high fee in the market, it does not follow that that skill is worthless. For example, blacksmithing is still a difficult skill and virtuous despite there being little market demand. The underlying point is that it is a mistake to exclusively assess the value of goods and skill by their potential for exchange. Rather they must be assessed according to their inherent virtue irrespective of their wider function. While acknowledging that a person may labour to refine their skills, luck egalitarians assert that the radical contingency of a person’s talents and capacities shapes a person’s ability and propensity to labour. This would apply also to the relevant opportunities and facilities to develop these talents.

Lastly, talent-slavery is a mischaracterisation of luck-egalitarianism goals. This is because few luck egalitarians want to redistribute talents. Rather, most seek to equalize for the effects of talent. While a social system could have been otherwise, in the here and now, it is the social system that people live and work within. But this system is radically contingent, and so are the supposed ‘talents.’ In a system that was otherwise, talents would likely be otherwise.

Secondly, it is a mischaracterisation that luck egalitarianism neglects capitalism and subordination. In fact, the core commitment of luck egalitarianism is to question the intersection of the state and the market, insofar as a state can make allocations and distinctions in morally arbitrary ways without regard for the dues demanded by moral status. The state can also legitimate morally arbitrary natural differences in advantage without adequate justification, thereby treating a morally arbitrary disadvantage or difference as politically relevant: or in effect, treating the lucky better than the unlucky. Moreover, if the state, the economy, or a community makes bad luck systematically durable, it leads to undue subordination, castes, and hierarchies. This thereby grants undue privilege and entitlements that are anathema to Rawls’ fair sharing of the benefits and burdens of social cooperation. These are all insidious forms of undue political subordination and domination. Luck Egalitarianism’s chief goal is to make persons aware of yet another kind of undue political subordination. As Daniel Markovits writes,

The core intuition behind luck egalitarianism is not that equality is about purely natural differences in advantage or that equality is a purely distributive ideal, but rather that when a state prefers some over others in
a morally arbitrary way, then the state’s claims to authority undermine equal relations among its citizens.\textsuperscript{438}

Luck egalitarianism’s core commitment is that disadvantages resulting from natural bad luck are unquestionably morally arbitrary and hence lead to oppression, domination, and exploitation.

Having explicated this reasoning, one can see that luck egalitarianism is firmly grounded in both classical egalitarian aspirations of non-subordination and orthodox liberal conceptions of society. In this respect, it has fairly clear aspirations to apply moral criteria to political ideas about distributive justice. Nor would it endorse systems that naturalise institutional luck. By insisting that a fair and equal society would not leave a person to fate, luck egalitarianism seeks to create morally respectable politics. In this sense, persons share a society with others and their fates are entwined. As Markovits writes

\begin{quote}
On this view of luck egalitarianism, the distinction between choice and chance is fixed by the allocation of responsibility that people would adopt from a truly equal position, knowing that they needed to cooperate and to share in the benefits and burdens of cooperation, but always insisting that they also remain agents and indeed free citizens, who retain responsibility for their choices and hence authorship of their own lives.\textsuperscript{439}
\end{quote}

Returning to the criticism that luck egalitarianism neglects relational equality, it seems an attenuated case. Firstly, as a political project, luck egalitarianism seeks to redistribute the fruits of good hard luck, while seeking to lessen the burdens of bad hard luck. This is essentially relational for it stresses that political subordination of the kind introduced by wide social inequality stresses social cohesion to the point of fracture. This circumstance will certainly have negative consequences for each person’s deliberative autonomy to act with wider social considerations in mind. Social co-operation—the core ideal of relational equality—cannot be fulfilled if justice does not redistribute the burdens and benefits of society across persons who engage in this co-operation. For me this means a society intent on creating quality prospects for its members.

\textsuperscript{438} Ibid. p303
\textsuperscript{439} Markovits (2008) \textit{op. cit.}
Conceiving equality in terms of prospects has direct implications for the distribution of resources, in that it should be used to develop the capacities that will provide the means to cash out the ability to act otherwise. Recalling Machiavelli’s observation, hard luck can be curtailed by human behaviour. So despite luck being an observer independent feature of reality, persons can follow deliberative courses of action to take it into account when designating what a just system of justice would happen to be. In doing this, one should maintain the meaningful distinctions between chance and choice. This is because the presence of bad luck provides grounds for redistribution or compensation for the resultant disadvantages, whereas the presence of good luck provides grounds to redistribute in a proportional fashion because the resultant advantages were not entirely deserved.

As I have argued throughout this dissertation, for an event to be lucky it must meet the criteria that in most near-by possible worlds it could have been otherwise. The benefit of formulating luck along these lines provides a fairly simple means to assess the distribution of burden. However, given capital's penchant to exploit human relationships in a particular predictable manner, there are no actual prospects for many human lives to be otherwise. For this reason freedom and liberty imply the material resources to facilitate the ability to act otherwise. But liberty of this kind simply cannot exist in a society colored by capitalist exploitation and entrenched class barriers.
Conclusion

I began this study by noting the widespread disparity in the quality of life and life chances available to persons belonging to different classes. There are many other factors outside of a person’s socioeconomic position that can influence life chances, including such obvious categories as gender, race and ethnicity, in addition to the region or country of the world where one happens to be born. These factors in turn are often intertwined with factors such as education and income, so that the lived experience of class often has a distinctively multidimensional character. Having said this, my focus in this dissertation has been directed at higher levels of abstraction dealing with the political economy of life chances as a feature of life in western capitalist liberal democracies—societies often promoted as the freest and the most equitable in the world. In the wake of growing unrest about economic disparities between the so-called “one per cent” and everyone else in western societies, I believe that an assessment of the limits and possibilities of life chances in contemporary capitalist liberal democracies has assumed a renewed urgency. Equally urgent is a consideration of the political sleight of hand used to paper over the horrors and lawlessness of modern capitalism perpetuating overwhelming and incontestable arbitrariness of suffering as capitalists seeks to intensify the exploitation of virtually every sphere of human existence. Early twenty-first century capitalist liberal democracy contains many freedoms and has elevated living standards for many people. But, it has also alienated many people from quality prospects and genuine opportunities to improve their lives. The goal of making capitalism more democratic, just and equitable is one of the pressing political dilemmas of our time.

To address these issues, I set myself the task of developing a practical way to conceptualize and to demonstrate how unfair contemporary capitalist societies happen to be. I did this because too often debates about unfairness and inequality become squabbles about the accuracy of data and the suitability of econometric models but miss
the point about ethics and exploitation; all of which results in a rhetorical redirect that distracts from reform. This has necessitated a movement through discussions of egalitarianism in the moral philosophies of liberalism and Marxism, although the method and framework I develop throughout this dissertation has attempted to avoid undue deference to established political doctrines.

In a well-regarded approach to the issues of justice and life chances, John Rawls sought to minimise the extent to which the radical contingency of the “initial chances in life” do not become “deep inequalities.”[^440] His suggestion was that

> The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favour his particular condition, the principles of justice are the result of a fair agreement or bargain.^[441]

This method is meant to ensure a general degree of justice and fairness in polities. Rawls’ difference principle states that deviation from absolute equality between individuals in the distribution of primary good is permissible only where such deviation results in the least well-off being better off that they would be under any other distributive arrangement.

Although attractive for its commitment to equal individual rights and to individual liberty in the face of radical contingency, Rawls’ theory accepts that the stratification of life chances is inevitable, and it permits unequal desirability of station, however grudgingly consented to, and whatever class compromises are made. Another problem, as Thomas Nagel has observed, is the clash between partial and impartial interests. Persons can have good reasons to assert the value of their partiality, even while they attempt to commit themselves to impartiality. So Rawls’ framework is too susceptible to the entrenched partial interests that result from the class divergence he admits.

[^440]: Rawls (1971) *op cit* p7
[^441]: Ibid
This is a dilemma for those interested in a politics of redistribution for it demonstrates how one cannot suppose that members of a society share a general agreement to a comprehensive commitment to the kind, amount, and means of redistribution that can or should be undertaken to remedy inequities. Moreover, because of the nature of democratic societies, it is unlikely that there can be, or will be, a shared comprehensive view. Rawls knew this, and in later works compensated by emphasising the importance of a well-ordered society and an overlapping consensus.

By contrast, I have suggested that one should not aim for absolute rational reconciliation between partial and the impartial interests; rather, it is wiser to use reasonableness to arbitrate amongst various partial perspectives and the historical-material reasons for why they are held. It is therefore not guaranteed that in any given circumstance, the partial, the impartial, nor their supposed reconciliation hold sway. Instead, one can make allowances for disagreement, based upon the burden of reasons advanced. This removes the need to predicate a broad consensus (for much like there can be a tyranny of the minority, so too can there be a tyranny of consensus) and well orderedness (because what you have a right to do and what is right is not always the same thing.)

One possible approach to evaluate the giving and taking of reasons is to adopt Derek Parfit’s convergence principle, which states that “an act is wrong just when such acts are disallowed by some principle that is optimific, uniquely universally willable, and not reasonably rejectable.” Still, in spite of the compelling nature of Parfit’s principle, I have suggested that in seeking to populate a set of moral reasons, his approach makes the moral agent disappear and unnecessarily downplays the social dimension of the good life. Parfit overlooks the extent to which people, not reasons, are why ideas about justice exist.

One reply to that question comes from Martha Nussbaum in the form of liberal capability-functioning theory. Despite this view being influential in international and national regulatory institutions, I am generally dissatisfied with it, because, while empowering a person’s agency is rightly desirable, it too often neglects to address the historical reasons why various persons are constrained. To put it plainly, capability-
functioning theory does not sufficiently attend to exploitation. As a result, the theory has low political targets and so is not amenable to egalitarians aspirations.

Stemming from slight disagreement with Rawls and Nagel, Parfit and Nassbaum, I have sought to offer an alternative approach to conceptualize and to demonstrate the unfairness of exploitation predicated upon structural oppression. Inspired by Bernard Williams’ and G.A. Cohen’s comments and contributions to moral philosophy, I have advanced a ‘luck-egalitarianism’ argument as a more suitable model to identify, assess, and overturn existing social inequalities. Further, I demonstrated the degree to which the structural distribution of chance is a matter of justice, in part because governors allocate chance, or allow chance to matter.

Certain kinds of lucky experiences, certain kinds of misfortune need not be inevitable, and need not create and reproduce deep inequalities. Through a distinction between hard and institutional luck, I have demonstrated the role played by economic structures in widening inequality when they make the contingent features of the person solid social determinants. This institutional intervention to perpetuate misfortune alienates people from cultivating their capacities and improving their prospects. I thereby made the case that amelioration of economic inequality requires a major redistribution of life chances, but where redistribution is based on a supple appreciation of how these chances are produced. This necessitates redistributing the resources of a society to afford genuine quality prospects for people to enrich themselves.

My treatment of luck acknowledges that a particular outcome is a selection between various possible alternatives and weighted probabilities. One key methodological concern has been the different level of political importance to be placed upon probabilities and possibilities. Some possibilities are so probabilistically low that they can virtually be discounted from explanations and descriptions for certain kinds of actions. However, being unlikely is different from being absolutely discounted. By implication outcomes are not wholly indeterminate, but rather contingent products of historical forces, some of which may or may not be known to the participants themselves. In other words, it is possible that outcomes could be determined reasonably and fairly as well as being reasonable and fair themselves.
Conceptualizing justice as a response to chances—whether by equalizing them or tacitly accepting them—is different from understanding justice as product of providence, fate, or cosmological intentions. Thinking about life chances in modern liberal democracies concedes to four conceptual preconditions. The first is admitting that radical contingency makes a moral difference. The second presumes a world of regularities. Closely related is a third point, which is the existence of people and populations who bear the consequences of hard and institutional luck. Lastly, there is belief that justice expressed as life chances is suitable and necessity. This does not mean that the regular occurrence of luck undermines free will. Rather, it tells of patterns of decision-making and causality in similar social and environmental conditions. For instance smokers statistically live shorter lives, but any one smoker could miss developing emphysema.

As an example, consider the statistical regularity of mortality noted in the Introduction to this work. I pointed out that in contemporary Glasgow, those persons living in Lenzie have a life expectancy of 28 more years than those persons who live in Callo. In London, those in Chelsea-Kensington have 17 years on those in Tottenham Green. Here we are assessing life chance as measured by length of life plotted as a function of location, which itself is a rough proxy for income, educational level and other sociological indicators of Scottish class position.

In addition to presenting life chances as quantitative—that is how many chances a person receives—I have also presented them in a qualitative fashion. What I mean by quality life chances is whether there is a reasonably good prospect of the life chance being converted into the outcome the person desires, whether it is enjoyment, happiness, or security. However, it must be noted that life chances are difficult to assess categorically or statistically. This is not to suggest that such assessments can never be done, but to suggest that they are formed by a reasonable partial preferences unique to each person.

Like Rawls’ solution, this highly individuated conception of life chances does not ensure easy descriptive equality, but rather normative equality. In practice this means we must seeks to create prospects for persons that they would reasonably consider to
be of good quality. This kind of fairness is not predicted upon the position a person occupies within a basic structure, but seeks to provide them the capacities to navigate that basic structure as they see fit. When structural allocations of chance inhibit this, then no such genuine prospect can be said to exist. Similarly, too with the sheer number of hard luck events that have grievous consequences for those that befall and suffer from epidemics, war, poverty, famine and the like. It is possible to sympathize with the attempts to mitigate and eliminate these events and their effects, thereby reducing risk and interceding against hard luck becoming a social determinate. All in all, I propose that the quality of prospect principle can be used methodologically to investigate whether persons have a reasonably fair chance of making good on their desires, or whether inequalities of one sort or another diminish these prospects.

With respect to equality and economic activity, it makes little sense to suggest or imply that people should carry the costs of hardships that stem from economic affairs. Similarly, given radical contingency, there is little to be gained from being excessively mean spirited to those who make unwise decisions. Consider a heroin user who, while impaired, burns down a house, incurring severe burns. Unquestionably the person is negligent, but this should not disqualify him or her from treatment in a public hospital or from accessing publically funded programs. Certainly the addict benefits from redistribution on grounds other than hard luck. In this case, while we can still hold someone responsible for their conduct—given that they were instrumental in causing an event—there are compelling reasons why this fact should be paired with compassion for social circumstances, and an awareness of the possible causes that shaped the person and that contributed to his or her current state. In other words, we must be pair the contingent formation of the person with care for them.

Understanding life chances requires analysis of their regular occurrence and general predictability, the desire to know and control where possible, the segregation out of the happenstances from the steady skews. In the final assessment, this is so that we might be able to increase the autonomy of persons. Presently, the well off, well educated, and well-placed have a great deal of autonomy when it comes to the pursuit of quality of life. But one needs to find ways to allow other persons to increase their autonomy to a similarly high level; to give them opportunities to make choices that are
less likely to be skewed in negative directions. This does not insulate people from the difficulties of life, but it does mean carving out ground for human choices away from impersonal forces that block or blunt human capacities or potential. Advocating for autonomy is to support human agency against forces that are indifferent to this desire.

I am not suggesting that limiting hard luck from the orbit of institutional luck will remove contingency from the formation of any person. Nor am I suggesting that dull homogeneity should be the order of the day. Contingency is an important attribute for meaning. Meeting a future partner by chance unsettles life, but can lead to new joys. Luck is perhaps even desirable for learning, discovery, creativity, and so should be preserved. Chance also brings risks that cannot be taken away no matter how much control and precaution is sought. Consider Machiavelli’s case of the river. There is real danger that the banks might break if the river floods. Still, a person wisely taking due precaution can never absolutely remove contingent elements. Instead that person seeks to establish what tolerable risks are, because he or she knows tolerable risk has economic as well as moral and engineering components. How much and what kinds of risks are worth taking are matters for wisdom to decide upon. Instead, the target is to limit how chance is used as a political instrument to further discrimination and oppression, exploitation and alienation.

Altogether, these debates involve possibilities, probabilities, and desirables, intersecting the ability to calculate risk, luck, and contingency. Additionally they involve the particular causal imagination that underlies the thinking about the kinds of calculations that are important to make. Together, they reveal the kinds of foresight persons and societies value. In sum, it is better to assess life and the prospects for human flourishing as chances which are structurally allocated to ensure fairness. Persons should have access to good prospects, while institutionally there should be efforts to continually produce more.

I have argued that this requires an approach to contemporary liberalism which seeks to marry guaranteed individual political and civil liberties to substantive economic equality between individuals. At stake is whether the liberal tradition contains sufficient resources for its own renewal: or as I put it in the Introduction, whether it can make good
on what I termed its ‘sufficient aspiration.’ A good test is how twenty first century liberalism treats social inequality. I hope to have shown that it can do so by directing attention to how institutions attempt to ameliorate bad hard luck, or allow bad hard luck to become bad institutional luck, accumulating and widening various social disparities between persons and classes.

Throughout this dissertation I have discussed liberalism as the practice of reasoning with rhetorically viable others. Herein persons should not rush to judgment, and we should be cautious about our intuitions, in part because one should acknowledge that there are unknowns in every endeavor. Senses are unreliable and mistaking intuition for reason results in fallacies and massive errors in thought. Conversely, while reasoning is fallible, it is not false. That said, it makes a moral difference how we accommodate limitations that arise from uncertainty.

However, liberalism also has a stance on actions. For ultimately the liberal discourse assesses the legitimacy of actions undertaken by individuals and institutions. Here, deliberate actions matter. Even when the outcomes are similar, in my view, those actions that have are the result of purposeful and intentional action have greater moral worth. Through an appeal to imagination and moral worth I have sought to promote an emphatic regard for others, and a belief that they have the capacity to give and take reasons. The appeal to reason is precisely because of, and a consequence of realising, that world views cannot necessarily lay claim to unqualified universal acceptance. This attitude involves a set of virtues which include a willingness to test ideas in public, a high tolerance for uncertainty, as well as making peace with the unknowable. Here persons and politics turn not on absolutism, but the weight of better or worse reasons.

Liberalism, as I have sketched it, turns on individuals seeking the excellence of reasons so as to be well positioned when interacting with one another. In this respect it cannot be detached from universal philosophical inquiry or particular cultural exchanges (i.e. what counts as a good reason in particular circumstances), but to quote Rice again, “it is a living regime, a never-ending conversation.”442 There is utility to conceiving of

442 See Rice (2005) op. cit.
liberalism as a practice with degree and flux.\textsuperscript{443} It underscores how fragile liberty is, and how liberal societies can become reactionary and intolerant. As Tilly mentions for democratization, but which equally applies to liberalism, “The same democracy can be growing both more and less democratic simultaneously, along different tracks of democratic development.”\textsuperscript{444} Therefore, and it should go without saying, (but unfortunately many critics choose not to acknowledge the point), liberalism cannot guarantee against human suffering. As Stout remarks

> Our democratic aspirations coexist, however uneasily, with our hatred, cruelty, sloth, envy, greed, and indifference to the suffering of others. The emergence of new elites has combined with various forms of vice, bigotry, arrogance, deference, and fear to deform democratic practices in all societies we loosely label democratic. Justice, as democracy conceives of it, has always and everywhere been a virtue in short supply.

While the fashion has been to move from philosophical liberalism to political liberalism, my intuition is to take the distinction as a coy bifurcation that neglects the liberal tradition’s metaphysics. While shared with opponents of liberalism, this view is not popular within liberal circles among those who espouse liberal neutrality. Failure to do so unnecessarily perpetuate the priority of the right over the good, which is unsatisfactory for it does not recognise the demands of impartiality in moral thought and does little to advance the liberty of others. This is an unnecessary individualization of the political process. Rather, social contract theory should be expanded to include a metaphysical orientation in which there is a sense that the good matters. This good binds a political community together.

Overall, one needs to move away from a narrow analysis limited to the procedural rituals constitutive of the political community and towards a more suitable method to determine the shape of the social world and the various forces that come to bear upon it. To my mind this requires moving beyond appearances to make connections between parts in an effort to grasp the whole. This approach has a

\textsuperscript{443} I do not want to pursue an excursus on practice theory at this point, but simply to note that practice theory attends to what people actually do in the circumstances they find themselves, with a focus on social practices, the reasons and intentions for those practices.

\textsuperscript{444} Tilly (2009) \textit{op. cit.}
particular resonance in Marxist thought, but neither is it alien to liberalism. Rawls concludes *A Theory of Justice* with the invocative need to “regard the human situation not only from all social but also from all temporal points of view.” Among other things, it is this the kind of conception of justice and totality which is required to scrutinize how capitalists’ intense exploitation of nature greatly harms all peoples’ dignity, power, and prospects to live an otherwise free life. For it is only through such scrutiny that any equitable and humanely rational society is even imaginable.

[^445]: Rawls (1971) *op cit* p587
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