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EXTENDING RAWLS'S "BASIC STRUCTURE:"
WAGE WORK AND THE FAIR VALUE OF POLITICAL
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**EXTENDING RAWLS'S "BASIC STRUCTURE:"
WAGE WORK AND THE FAIR VALUE OF POLITICAL LIBERTY**

**By
James Van Isaak**

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ABSTRACT

EXTENDING RAWLS'S "BASIC STRUCTURE:" WAGE WORK AND THE FAIR VALUE OF POLITICAL LIBERTY

By

James Van Isaak

Most commentators on John Rawls's *A Theory of Justice* focus on the liberty and difference principles to the exclusion of the opportunity principle. In this thesis, I show, first, how a commitment to fair value of political liberty forces us to think of the opportunity principle as central to Rawls's theory and, second, how this shift forces us to expand Rawls's conception of the basic structure to include the traditional family and the workplace. I begin by showing that citizens in the original position would choose principles of justice which protect the fair value of political liberty. I then argue that this interpretation of justice as fairness requires us to come to a more comprehensive understanding of the determining influence of social institutions on personal development and choice. In particular, I argue that our ability to realize conditions under which citizens could participate in the political process as free and equal citizens rests on recognizing how the basic structure encourages and sustains the dynamics of power relations and determines the parameters of individual opportunity. On this interpretation, a commitment to "fair value of political liberty" forces us to include the family and the work environment as centrally determining influences on the value of political liberty and, hence, of the basic structure.



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Introduction.

Our social environment has a profound effect on every aspect of our lives. It affects our life-prospects, what we can expect to be, how well we can expect to do, and even what we want for ourselves and others. It also influences the character of our political decisions, including whether or not we choose to participate in the political process. A theory of justice that places a premium on establishing and protecting the rights of all citizens to participate in the political process as free and equal citizens must therefore pay particular attention to the context in which we make our political decisions. John Rawls's 'justice as fairness' is such a theory. One reason why Rawls emphasizes the importance of protecting fair conditions for political participation is because, in a democratic society, the political process has the potential to allow one to exercise the important moral capacity of politically participating in and exercising political control over one's life. But, more importantly, a fair political process allows citizens the opportunity to shape other important conditions under which social, economic and political activity take place. Because political participation loses its moral value for citizens when they recognize its systemic bias and corruption—in the language of social science, they become apathetic—it is imperative to ensure equitable conditions for political participation.

Any attempt to implement justice as fairness must therefore focus on the conditions under which social choices are made. If fair conditions can be achieved, it is more likely that the political process will be used to achieve other important goals such as constructing a just constitution and legislation that protect individual rights and make fair social cooperation in general more possible. In this paper, I attempt to narrow the conceptual gap between theory and practice by extending the reach of Rawls's theory to the workplace and the traditional family in the United States.

This extension of the 'basic structure' is more complicated than merely extending the reach of Rawls's principles of justice to cover the distribution of primary goods within these two institutions. I argue that it requires that we place Rawls's commitment to fair equality of opportunity at the center of the theory. It is not simply one part of his second principle of justice. It also requires that we think of power in more structural terms and not just one of several primary goods to be distributed. Extending the basic structure means understanding it as a set of power relations that determine the forms of political opportunity in a complex democratic society. The family and the workplace are central and not peripheral parts of this larger social structure where the fair value of political liberty is created. When we see the basic structure in this extended sense, the gap between theory and practice is narrowed and we can put aside Rawls's distinction between ideal and non-ideal theory. I believe this move is consistent with Rawls's turn from a metaphysical to political conception of justice.

I begin with an analysis of the relationship between Rawls's three principles of justice. Following Norman Daniels, I challenge Rawls's idealized separation of the difference and liberty principles by demonstrating their potential for conflict in application. While I basically agree with Daniels's analysis, I maintain that his exclusion of the opportunity principle results in an incomplete picture of Rawls's overall theory. Further, I believe his treatment of inequalities requires more detailed attention to how inequalities in power lead to inequalities in political liberty. I attempt to fill these gaps in the second and third sections of this paper.

In the second section, I argue for the recognition of two distinct concepts of opportunity and discuss their relationship to the difference principle and the liberty principle. I maintain that these concepts play an important explanatory role in the relation between political participation and self-respect. In particular, I argue that the relationship between political efficacy and self-respect rests on recognizing the fairness of a political process in which one does not always achieve one's aims. I maintain that the fairness of

the political process is intricately related to the fair equality of opportunity and difference principles. The goal in this section is to clarify the details of this relation.

In justice as fairness, the principles of justice do not apply to individuals but to the major political, social and economic institutions that constrain and guide social activity.¹ The application of the principles thus requires an understanding of how the 'basic structure' influences the beliefs, hopes, desires and behaviors of citizens. In the third section, I argue that these relationships are best understood in terms of power relations. To this end, I use Thomas Wartenberg's 'field theory of power' as a basis for my analysis. The major claim in this section is that power is the major determinant of political efficacy and that individual power is best understood as the product of the surrounding political, social and economic institutions. I pay special attention to how our social and economic system gives rise to inequalities in power and how these inequalities affect the value of political liberty. Understanding power as a *social* phenomenon puts us in a better position to formulate strategies to actualize fair conditions of political participation.

In the fourth section, I use the analyses of the first three sections as a basis for assessing the relationship between a 'basic social minimum' and the worth of political liberty. The focus is on the structure of wage work in the United States. After discussing the problem of equal access to the workplace, I propose and critically assess three strategies for minimizing inequalities in power in the workplace. I begin with an analysis of Rawls's proposed solution to the social minimum—the 'transfer mechanism'—and its relationship to wages and market forces. After showing the problems of using this mechanism for ensuring the value of political liberty, I argue that a less problematic approach involves restructuring the workplace to afford equal opportunity for the acquisition of property. Finally, I propose a reconceptualization of the minimum wage within a restructured workplace.

¹ John Rawls, *Political Liberalism*, Columbia University Press, 1993, p. 258.

I. Worth of Liberty and the Difference Principle.

In this section, I focus on the priority of liberty and its relation to the difference principle in Rawls's theory. Here I use Norman Daniels's analysis in "Equal Liberty and Unequal Worth of Liberty" to reveal potential sources of conflict between these principles and to clarify the issues involved. This analysis provides the basis for assessing whether the demands of Rawls's theory are incompatible with particular socioeconomic systems. In addition, it allows us to evaluate Rawls's attempt to answer these criticisms by reformulating the first principle. I ultimately argue that this reformulation does not adequately answer Daniels's criticisms. I also deny that fair value of political liberty is compatible with large inequalities in primary goods.

In the following passage from *A Theory of Justice*, Rawls draws the distinction between liberty and worth of liberty.

The inability to take advantage of one's rights and opportunities as a result of poverty and ignorance, and a lack of means generally, is sometimes counted among the constraints definitive of liberty. I shall not, however, say this, but rather I shall think of these things as affecting the worth of liberty, the value to individuals of the rights that the first principle defines.²

Rawls uses this distinction to reconcile apparent conflicts between the two principles of justice. For although the liberty principle has priority over the difference principle, the worth of liberty is affected by factors such as an individual's wealth relative to others in a given society. When we consider Rawls's commitment to fair value of political liberty, unequal distributions of income allowed by the difference principle seem to conflict with the liberty principle.³

²Rawls, John, *A Theory of Justice*, Cambridge, Mass: Harvard University Press, 1971, p. 204.

³Following Rawls, I will avoid the negative/positive (formal/substantive) liberty debate and assume that "liberty can always be explained by a reference to three items: the agents who are free, the restrictions or limitations they are free from, and what it is that they are free to do." Ibid., p. 201f. Below I will discuss the traditional distinction only to illustrate how this explanatory method supersedes the more traditional view. Here, I merely point out that the 'triadic' explanation of liberty allows us to analyze conflicts between political liberty and other liberties and suggests preemptive steps to guarantee the worth of



The worth of liberty is not the same for everyone. Some have greater authority and wealth, and therefore greater means to achieve their aims. The lesser worth of liberty is, however, compensated for, since the capacity of the less fortunate members of society to achieve their aims would be even less were they not to accept the existing inequalities whenever the difference principle is satisfied. But compensating for the lesser worth of freedom is not to be confused with making good an unequal liberty.⁴

The claim here is not that the mandates of justice are met if those with lesser liberty are allowed more of other goods: "compensating for the lesser worth of freedom is not to be confused with making good an unequal liberty."⁵ It is only an acknowledgment that the social and political conditions may limit efforts to more closely approximate the ideals of the first principle. At the same time, Rawls insists that as long as the criterion of the first principle fails to obtain, justice as fairness requires the examination of those conditions that prevent its actualization and the evaluation of alternative arrangements that could lead to fairer worth of liberty.

A. Does the Worth of Liberty Distinction Work?

In his "Equal Liberty and Equal Worth of Liberty," Norman Daniels challenges Rawls's justification for the worth of liberty distinction and argues that Rawls's two principles of justice may be incompatible under certain circumstances. More to the point, he suggests that certain socioeconomic systems may present insurmountable obstacles to actual fair value of liberty. If Daniels is correct, a social commitment to justice as fairness may require a radical transformation of those socioeconomic systems.

Daniels begins by questioning the justification for the distinction between liberty and worth of liberty. The problem he focuses on concerns an apparent inconsistency in Rawls's reasoning. We have seen from the above passages that Rawls acknowledges how certain kinds of obstacles prevent people from enjoying equal value of liberty and that he claims this is acceptable as long as the difference principle is satisfied. However, Rawls's

political liberty. Note that I will continue to use the term 'substantive' to refer to an ensured standard of liberties and opportunities consistent with the principles of justice within a particular society.

⁴Ibid.

⁵Ibid. p. 205.



entire project is predicated on the possibility of identifying obstacles to liberty and removing them. He wants to determine what justice as fairness requires and what background conditions would best ensure those requirements. "The question whether Rawls's distinction between liberty and worth of liberty is arbitrary reduces, then, to the question of whether it is arbitrary to exclude economic factors from the category of constraints defining liberty."⁶ The question Daniels poses is why we should exclude economic obstacles from consideration?⁷

Daniels points out that although "economic factors, ... are explicitly excluded from among the constraints *definitive* of liberty," there is not a convincing rationale for this exclusion.⁸ For example, although there is a historical tradition of excluding constraints that are not attributable to a single identifiable actor or group of actors, Rawls's project is predicated on our ability to identify and modify 'background conditions'.⁹ In so far as justice as fairness aims at establishing fair background conditions for social and economic activities, he implicitly acknowledges the need to identify outcomes under these background conditions as fair or unfair, evaluate the effects of these background conditions, and take steps to alter them to ensure outcomes that more closely approximate the goals of justice as fairness. Supposing the distinction between worth of liberty and liberty rests on recognizing only certain kinds of limitations on liberty, we might say justice as fairness is only concerned with such and such constraints on liberty. However, in so far as no non-arbitrary differences exist between the kinds of constraints Rawls recognizes and those he does not, he is faced with either denying any responsibility for minimizing these obstacles or acknowledging a commitment to address them all. Since the

⁶Ibid., p. 260.

⁷Daniels, Norman. "Equal Liberty and Unequal Worth of Liberty," In *Reading Rawls: Critical Studies on Rawls' A Theory of Justice*, Ed. Norman Daniels, (New York: Basic Books, 1975), pp. 259-63.

⁸Ibid.

⁹Background conditions are laws and incentives that determine the boundaries of socially acceptable economic activity.

former would amount to rejecting the entire project of justice as fairness, we are therefore left to address all major obstacles to liberty.

Daniels's second step is to show the 'relative rationality' of choosing principles other than or in addition to the liberty and difference principles. Using these other principles, he shows how the difference principle does not in itself preclude inequalities in distributions that could prevent the actualization of the new principles. He then shows how the priority of the liberty principle cannot prevent these unwanted effects. Finally, he suggests how economic systems based on private property rights present obstacles to actualizing the principles of justice. The workhorse of Daniels's argument is the relative rationality argument. The reader will recall Rawls's claim that it is rational to choose the two principles of justice over the other major alternatives of utilitarian or perfectionist principles because neither of the latter alternatives offers any assurance that we will have sufficient tools to protect our interests and advance our conceptions of the good when the veil of ignorance is lifted.

They cannot take chances with their liberty by permitting the dominant religious or moral doctrine to persecute or to suppress others if it wishes ... nor on the other hand, could the parties consent to the principle of utility. In this case their freedom would be subject to the calculus of social interests and they would be authorizing its restrictions if this would lead to a greater net balance of satisfaction.¹⁰

Daniels argues that even if Rawls is correct about this, he has only shown the rationality of accepting the two principles over the other alternatives presented and not that there are no other principles equally or more rational choices than the two principles of justice. He thus proposes the 'relative rationality argument' stating that "if it is rational for a person P to choose principle(s) X for a given set of reasons, then if principle(s) Y offer equally good reasons, it is also rational for P to choose Y."¹¹ Now persons in the original position are choosing principles that are most likely to protect their interests no matter who they

¹⁰Rawls, *A Theory of Justice*, p. 207.

¹¹P is a rational person deliberating from behind the veil of ignorance.



turn out to be once the veil is lifted. When we turn to Rawls's distinction between liberty and worth of liberty, says Daniels, we must therefore ask ourselves whether it is equally or more rational to choose principles that 'protect' liberty but allow for unequal value of that liberty or principles that protect equal worth of liberty. Since it is not liberty but the value of liberty that reflects an actual ability to protect one's interests, it seems to be as or more rational to choose principles protecting equal worth of liberty.

Now part of Rawls's argument is that it is 'rational' to choose the two principles of justice from behind the veil of ignorance, but it is 'reasonable' to accept the two principles once the veil is lifted. Principles that protect liberty are preferable to alternative principles because people are more likely to recognize them as reasonable and hence more likely to respect them. Therefore, liberty protecting principles would be more likely to lead to stable social arrangements. Since the ability to protect our interests depends on having the effective ability to act on our own behalf, the relative rationality argument suggests that it is therefore equally or more rational for persons in the original position to choose a principle protecting equal worth of liberty.

To say that one has equal worth of liberty is to say that she has an equal capability relative to others in that society to make use of her liberty. But her capability to make use of her liberty is dependent in part on how many resources she has and in part on how efficiently she can use those resources relative to others in the society. The difference principle allows inequalities in resource distribution if that distribution is to the benefit of those who are the least advantaged. For Rawls, these inequalities are measured by the index of primary goods each representative person has. But, unless representative persons represent groups of people chosen for their like abilities to convert primary goods, the difference principle will not give an adequate indication of the inequalities that really matter. If these inequalities in wealth and power are relatively small, they may not lead to inequalities in worth of liberty. However, at some point the disparity could be great enough to matter. Because justice as fairness aims at ensuring the fair worth of liberty, it



therefore requires the identification and mitigation of these sources of unreasonable inequality in the worth of liberty.

Daniels identifies two potential sources of this kind of inequality: a political system which is not sufficiently insulated from the influence of wealth, and large differences in distributions of wealth and power.¹² Even though it is unlikely that the political system can be wholly insulated from the influence of unequal distributions of wealth, a commitment to fair worth of liberty will probably require efforts to limit these inequalities to begin with. It is here that we would expect the difference principle to come into play, limiting inequalities so that they are to the greatest benefit of the least advantaged.

However, Rawls does not assign this role to the difference principle. Rather he assumes a clear separation of the two principles such that they each refer to more or less independent domains.¹³ Hence, he seems to suppose that the first principle of justice could be satisfied through other mechanisms, e.g., through a progressive tax scheme. Nevertheless, the potential for conflict between the difference and liberty principles remains a concern once we begin to assess the limits of using a transfer mechanism. The major concerns here are the scope of the system and whether its rationale could satisfy the publicity standard. The mechanisms of justice as fairness require a high degree of publicity as a condition of their social stability. Whenever a state mechanism is unduly cumbersome, citizens become less able to understand the rationale behind it and, consequently, more likely to become suspicious of it. An economic order that required massive transfers would require a complex bureaucratic apparatus and would therefore be unlikely to gain wide public acceptance. The difference principle must therefore retain a significant role in protecting the value of liberty.

¹² Below I will also include unequal access to knowledge of (a) how the system works, and (b) accurate, relatively complete, and reliable information to guide one's decision making process.

¹³Rawls, *Ibid.*, p. 66.



This conclusion forces us to confront a potential conflict between the difference and liberty principles. We can see this when we begin to clarify the notion of "inequalities to the greatest advantage of the least well off" as allowed by the difference principle. The conflict appears when we ask *how* they would be better off. For inequalities that work to the advantage of the least well off in regards to liberty of conscience can work to their disadvantage in regards to political liberty.¹⁴ Because Rawls places a higher priority on political liberty, one would expect the difference principle to place a higher priority on limiting inequalities that threaten political liberty. However, when the index of primary goods other than political liberty and liberty of conscience are maximized, the difference principle is satisfied. Because Rawls leaves out the effects of these inequalities on liberty, his discussion only focuses on the kinds of inequalities that would lead to greater liberty of conscience for the least advantaged. Never the less, once we admit the interdependence between the two liberties and the difference principle, we must acknowledge the potential for conflict between the two principles.

A commitment to justice as fairness thus forces us to determine which economic and social systems lead towards irreconcilable conflict between the two principles. While Rawls talks of 'perfectly just, just, and unjust' in reference to the maximized expectations via the difference principle,¹⁵ the recognition of the above conflict leads me to add the further criterion of maximized political liberty. I will therefore say that a system is 'perfectly just' when the expectations of the least advantaged are maximized *and* fair value of political liberty is preserved. I will call a social and economic order unjust when an alterable feature of it results in less than maximal worth of political liberty. For example,

¹⁴While the worth of either depends on holdings of primary goods, the value of liberty of conscience can be enhanced by allowing inequalities because the pool of available goods can be expanded through efficient arrangements. Conversely, because the value of political liberty is wholly relational, i.e., the value of my liberty is determined relative to others in my society, allowing inequalities in the value of political liberty can only result in diminished value for the least advantaged. I argue below that the decision to create fairer value of political liberty is thus best construed as a decision to share power. See pp. 14-16.

¹⁵Ibid., pp. 78-79.



if the protection of property rights prevents movement towards equal political liberty, and if altering property rights would not result in less liberty for all, then the system protecting those rights will be unjust. The goal of justice as fairness is therefore to determine and establish a basic structure where no further changes in that structure would lead to more equal liberty. A basic structure that strikes this balance between the difference, opportunity and liberty principles is then said to be perfectly just.¹⁶ However, since it is unclear whether any social and economic system could meet the ideal conception of justice, we must focus instead on justice as progress towards the ideal. When we restate the problem in these terms, the important question changes from whether a social and economic system meets the ideal of perfect justice to whether there are inherent features or dynamics of that system that obstruct progress towards that ideal. In systems where features of the system make progress highly improbable if not impossible, the difference principle may be incompatible with the liberty principle. Thus, if Daniels's is correct in asserting the relative rationality of adopting principles ensuring equal worth of liberty, it would seem that he is also correct in suggesting a fundamental incompatibility of a democratic capitalist system with the demands of justice.

B. Rawls's Revised Position.

Part of Daniels's criticisms rest on the claim that it is at least equally rational to choose equal worth of liberty than equal liberty. Further, the distinction between liberty and worth of liberty has no non-arbitrary justification. There are several points that need to be clarified here. Daniels's argument is based on Rawls's apparent commitment to equal liberty of conscience *and* equal political liberty. In his more recent work, Rawls insists that we would only be concerned to ensure fair value of political liberty and not of liberty of conscience. Fair value, here "means that the worth of political liberties to all citizens, whatever their social or economic position, must be approximately equal, or at least

¹⁶Ibid., pp. 70-71.



sufficiently equal, in the sense that everyone has a fair opportunity to hold public office and to influence the outcome of political decisions."¹⁷

Rawls rejects any further guarantee for basic liberties as being either "irrational or superfluous or socially divisive."¹⁸ A further guarantee would be irrational since it would allow other needs, for example, needs of efficiency and social organization, to go unmet. It would be superfluous because our basic needs would presumably be taken care of in accordance with the difference principle and an unstated principle requiring that "basic needs be met, at least insofar as their being met is necessary for citizens to understand and to be able to exercise fruitfully" basic rights and liberties.¹⁹ Finally, a further guarantee would be socially divisive *if* it led to the appearance of differential treatment allowing special privileges or resources to some groups to the exclusion of others.

The important point to note here is that these are reasons to exclude a guaranteed right to fair value of liberty of *conscience*. He does not intend them to exclude a guarantee for equitable value of *political* liberty. Indeed, fair value of political liberty is explicitly guaranteed in Rawls's reformulation of the first principle: Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.²⁰ This modification is intended to answer Daniels's argument regarding Rawls's probable commitment to a substantially egalitarian economic system. The unstated assumption, here, is that liberty of conscience and political liberty are separable in regards to all of the relevant factors. Now it will be recalled that Daniels's argument rests largely on the connection between resources and the ability to exercise one's liberty. In order for Rawls's reply to succeed, he

¹⁷Rawls, John. *Political Liberalism* (Columbia University Press, 1993), p. 327.

¹⁸*Ibid.*, p. 329.

¹⁹*Ibid.*, p. 7.

²⁰*Ibid.*, p. 5.



must therefore show that the unequal distributions in resources allowed by the difference principle are a problem for liberty of conscience but not for political liberty.

Now we might suppose that the reply rests on quantitative differences between the resources needed to guarantee worth of political liberty and liberty of conscience. The assertion would then be that the political and social system can be so constructed as to require virtually the same amount of resources to establish fair value of political liberty for each citizen. For example, curtailing the influence of wealth by minimizing campaign contributions, using only state money to subsidize candidates, and ensuring reasonable access to polls may lead towards conditions where inequalities in wealth would not unduly skew individual capabilities to participate in the political process. Because the ability to effectively participate would require roughly the same resources for all citizens, and because we could use strategies to lower the index of goods needed to participate, it seems plausible to suppose that we could guarantee fair value of political liberty through the imposition of external constraints. On the other hand, since liberty of conscience refers to individual conceptions of the good, there is virtually no limit to different resources different people might require to actualize their conceptions of the good. Consequently, the cost of guaranteeing liberty of conscience's fair worth would vary considerably. Thus, although guaranteeing the value of political liberty could require the allotment of roughly the same resources to each citizen, a guarantee for the value of liberty of conscience would probably require us to allot vastly different amounts to different people. We can therefore see how a social guarantee ensuring the value of liberty of conscience would have much more potential to cause social divisiveness than one ensuring the value of political liberty.

There is little doubt that Rawls would be right in pointing out the different resource requirements for the two social guarantees. Nevertheless, showing that there may be different resource requirements would not answer Daniels's criticism regarding fair value of political liberty. Daniels claimed that the difference principle does not rule out



unequal distributions of primary goods that could undermine fair value of political liberty. Answering that criticism would require either showing how allowable differences in distributions of social and economic primary goods would not undermine fair value of political liberty or that we can limit distributions to protect that value. The former would require insulating the political process from undue influences of unequal distributions of wealth; the latter would require a principle that compensated for the inadequacy of the difference principle.

Another response open to Rawls is to note qualitative differences between the resources needed to guarantee fair value of political liberty and liberty of conscience. For example, he might argue that educational and informational resources are necessary preconditions to equal worth of political liberty. We might then suppose that providing these for everyone through state mechanisms might bring us a long ways towards equalizing worth of political liberty while allowing inequalities in other resources such as distributions of income. While I generally agree with this line of argument, I must also note that its success still rests on our ability to insulate the political process itself from the influence of unequal distributions of wealth and power. So although we can imagine how Rawls's reply might succeed if insulation were possible, the improbability of doing so means that distributions of wealth and power remain crucial factors in determining the worth of political liberty.

I therefore conclude that Rawls's move to guarantee only fair value of political liberty does not adequately answer Daniels's criticisms. He has drawn attention to potential problems with guaranteeing liberty of conscience's worth and he has drawn attention to differences between the kinds and amounts of resources required to guarantee fair value of political liberty and liberty of conscience. Whereas there are wide variations in resources needed to ensure equal worth of liberty of conscience, equal worth of political liberty may require roughly the same amount and kinds of resources for all citizens. This fact about political liberty focuses attention on the background institutions which constrain



political activity. Satisfaction of the liberty principle may be compatible with relatively large inequalities in the distribution of other primary goods in accordance with the difference principle only on the assumption that the political process could be insulated from undue influence from inequalities in wealth and power. However, if the political process cannot be protected from these influences, satisfaction of the liberty principle may require a fairly egalitarian distribution of some social and economic primary goods. I have suggested that the political process does not seem amenable to this kind of insulation and that we should expect differences in wealth and income to create unequal worth of political liberty. If I am correct, then social and economic systems that rely on tendencies towards unequal distributions of social and economic goods will be less compatible with principles of equal political liberty than Rawls suggests.

One might respond to this argument by conceding that differences in worth of political liberty are allowed by the difference principle and still maintain that this is not unfair provided the distribution of liberty is to the benefit of the least advantaged. However, when we talk about being better off by allowing inequalities in income, we are saying that allowing these inequalities raises the standards of the least advantaged. When we use this criterion to assess worth of liberty of conscience, it is relatively easy to see how allowing inequalities in distribution of wealth could lead to higher worth of liberty. For example, if the income of the least and most advantaged rose disproportionately while the prices of the desired goods either stayed the same or increased at a slower rate, the least advantaged would presumably have increased purchasing power and therefore the means to do more things than they previously could to realize their conceptions of the good.

When we use the same criterion to assess the worth of political liberty, the case is more difficult to make. For worth of political liberty is a relative measure between citizens, that is to say that when we have two groups of people, A and B, the A's worth of political liberty can increase only if the B's is lowered. Put another way, the decision to



allow other people increased influence within a given process is a decision to share power and create the need for compromise. Of course, this objection only succeeds on the assumption that allowing inequalities in political liberty leads to greater political liberty for the least advantaged. Rawls's intent is rather that inequalities in political liberty are compensated by increased liberty of conscience: when the difference principle is satisfied, "lesser worth of liberty is compensated for in this sense: the all-purpose means available to the least advantaged members of society to achieve their ends would be even less were social and economic inequalities, as measured by the index of primary goods, different from what they are."²¹ But unless the political process can be protected from the influence of wealth, inequalities in wealth and power are themselves a primary source of political inequality. That is, inequalities which work to the advantage of the least well off in regards to liberty of conscience can also work to their detriment in regards to political liberty. This effect is especially likely in a capitalist society where the standard of living for the least advantaged may rise in terms of income, while the concentration of the bulk of capital in the hands of a small minority of people may lead to more political leverage for the most advantaged and less worth of political liberty for the least advantaged. Insofar as this tendency is a defining characteristic of capitalist economies, satisfaction of the difference principle within such an economy does not appear to have the potential to move towards satisfaction of the demand for fair worth of political liberty.

This brings us back to Rawls's contention that unequal worth of political liberty is acceptable only when the difference principle is satisfied under the prevailing social conditions. Here the key questions are whether a given political and economic system, such as the capitalist democracy of the United States, has the potential for movement towards satisfaction of the first principle and, if it does, what the limits of that potential are. If there are inherent structural features of that system that inevitably lead to conflict

²¹Ibid., p. 326.



between the two principles, then that system is just enough only if there are no other known alternative systems whose structural features allow a closer approximation to the ideal of justice. When we assess a given socioeconomic system, we therefore note that (1) the possibility of moving towards the ideal of justice is a necessary condition for reconciling the two principles, (2) the impossibility or the improbability of such movement is a sufficient condition for saying the two principles are in irreconcilable conflict within that particular system, and (3) systems that preclude movement towards reconciliation of the two principles are just enough only if there are no known alternative social and economic arrangements that could more closely approximate the ideal of justice.

Supposing Rawls's response is intended to show how capitalism could be compatible with the ideals of justice, his response to Daniels does not seem very convincing. The changes Rawls institutes in the first principle do not seem to preclude the possibility of irreconcilable conflicts with the difference principle. Nevertheless, it will be rightly objected that neither I nor Daniels have shown the exact mechanisms that prevent capitalist democracy from moving towards fairer worth of political liberty. I believe that answering this question first requires knowledge of the preconditions for fair value of political liberty. Once we know what is required, we can then ask whether there are structural features of a given social and economic system that work against establishing those conditions and whether those features are alterable or defining characteristics of that system.

II. Fair Equality of Opportunity.

There are two major reasons why the concept of opportunity is important to my discussion. First, because political liberty is itself a kind of opportunity. To say someone has fair value of political liberty is to claim that she has no more and no less opportunity than anyone else to influence the political process. However, because this ability is not something that one passively attains but, rather, is something that must be achieved,



having equal opportunity does not at all mean that she has equal ability. Whether it is unfair that a person lacks this ability depends on three interrelated factors. On the one hand, it depends on whether she has access to the resources needed to develop skills for effective political agency. For example, the capability to participate competently in the political process is often enhanced by the opportunity for a good education. To the extent that this is true, the opportunity for education is a precondition for achieving fair worth of political liberty. But since an education does not in itself guarantee the opportunity for equal political voice, we must also pay attention to other factors that may present obstacles.

At the same time, whether a person makes use of the available resources depends in part on her attitudes and beliefs. I have already noted that these subjective features are largely determined by features of the basic structure. For example, many people who perceive the inherent bias in a political process lack the desire to participate and therefore neglect to develop their resources as political agents. Consequently, it seems plausible to say that the basic structure itself tends to create and promote unfair political liberty in so far as it tends to appear biased. Finally, insofar as we need economic resources to effectively exercise political liberty, the opportunity to attain those resources will be a precondition for ensuring fair value of political liberty. When unequal distributions of resources lead to unequal worth of liberty, fair opportunity to compete for these resources will be a precondition of fair equality of political opportunity.²²

In this section, I discuss two concepts of opportunity at work in Rawls's theory. I maintain that political liberty, as Rawls defends it, is liberty whose worth is not to be dependent on an individual's holdings of primary goods but is to be ensured by

²²While I emphasize the role of competition, I recognize and accept Rawls's denial that competitive maneuvering plays a role in the original position. See *A Theory of Justice*, p. 144. I maintain only that subsequent deliberations at the constitutional, legislative and judicial stages will have to recognize and take account of competition's role as a feature of any society in which there is a relative scarcity of primary goods. This is especially true where unequal holdings of these goods may lead to unequal worth of political liberty.



constitutional and legislative guarantees. However, I part with Rawls on the adequacy of using holdings of primary goods as the measure political liberty's worth. Our assessment must be concerned with how individual capabilities and social contexts allow different people with the same holdings of primary goods different abilities to make use them. I argue that a capability based approach to evaluating opportunity provides the necessary tools for evaluating the relationship between social context, relative holdings of primary goods, and relative worth of political liberty.

The discussion so far has centered on the effects of inequalities in wealth and power permitted by the difference principle on the worth of political liberty. I have not discussed the fair equality of opportunity principle and its relationship to fair value of political liberty. The importance of this principle becomes apparent when we note Rawls's commitment to the 'fair' and not 'equal' value of political liberty. "This guarantee means that the worth of the political liberties to all citizens, whatever their social or economic position, must be approximately equal, or at least sufficiently equal, in the sense that everyone has a fair opportunity to hold public office and to influence the outcome of political decisions. This notion of fair equality of opportunity parallels that of fair equality of opportunity in the second principle of justice."²³ If we are to understand Rawls's position on this point, we need an analysis of how fair equality of opportunity functions in the theory in general.

Rawls construes the principle of fair equality of opportunity as fair equality in a substantive sense: "The thought here is that positions are to be open not only in a formal sense, but that all should have a fair chance to attain them."²⁴ Rawls's position is not that we should concern ourselves with seeing to it that each and every person achieves her conception of the good. Rather we should see our goal as ensuring that each and every person has fair equality of opportunity to acquire the primary goods she needs. Virtually

²³Ibid., p. 327.

²⁴Rawls, *A Theory of Justice*, p. 73.



all conceptions of the good require some primary goods but, due to their relative scarcity, not everyone can get all of the primary goods she needs to actualize her particular conception. Given these considerations, our goal should be to ensure that all have a fair chance to compete for the offices and positions that would give them the goods they desire.

There are two important considerations to note here. The first is that although some people will not get what they want, they will recognize that given conditions of fair opportunity they were not treated unjustly. The second consideration is that all citizens are assumed to have the moral powers to "regulate and revise their ends and preferences in light of their expectations of primary goods."²⁵ The claim is that people who are given a fair chance and fail to achieve their goals will recognize that they were not treated unjustly, adjust their expectations in light of fair outcomes, and bear no malice towards those who fared better than they. Naturally, the concept of a social safety net is also vitally important. For if the difference principle truly reflects a deeply held conviction regarding the demands of justice, we should expect those who were allowed to 'fall through the cracks' to resent their lot. These three points constitute crucial factors in a scheme of voluntary social cooperation in which fair equality of opportunity is evident.

By applying this notion of fairness to the previous discussion of the priority of liberty and the satisfaction of the difference principle, I note that, under conditions where the difference principle is satisfied but the political liberty principle is not, insofar as unequal worth is due to an unequal distribution of wealth and power, the fairness of this distribution rests on whether or not everyone had fair equality of opportunity to compete for these resources. Put slightly differently: if there exists a representative citizen such that that person has unequal worth of political liberty, that person was treated unjustly only if that person (1) would have less worth of liberty under any other foreseeable

²⁵Rawls, *Political Liberalism*, p. 186.



distribution of goods, *and* (2) did not have fair equality of opportunity to compete for the resources needed for a greater worth of political liberty. Fairness, in this sense, implies the outcome of a fair process where individuals are competing for scarce resources. This analysis immediately raises the question of how we are to understand 'fair process' and 'fair equality of opportunity.'

Rawls is committed to a substantive sense of fair opportunity. In light of our earlier discussion regarding each person's obligation to revise his plan to accord with what he can reasonably expect to achieve, this fact may seem paradoxical. For it is my responsibility to revise my plans in light of my expectations in accordance with my limited resources. It is not society's responsibility to give me the resources to attain my goals. But if that is true, then it may seem as though any opportunity I have is fair so long as my basic needs are met and I am not actively discriminated against. But this account does not pay adequate attention to how Rawls's deals with the contingencies of the natural and social lotteries. Rawls is acutely aware that being born into a particular family or economic situation can put one at an enormous disadvantage.²⁶ It is his concern with this problem and the need to take adequate account of it that leads him to insist that "those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial starting place in the social system" and in "all sectors of society there should be roughly equal prospects of culture and achievement for everyone similarly motivated and endowed."²⁷ Note that the relevant factors here are talent, ability, and motivation—not prospects based on holdings of primary goods. My conclusion is not that Rawls is being inconsistent but that he is using two distinct conceptions of equality of opportunity. In the next section, I will be concerned to give an account of these two conceptions of opportunity and their relationship to fair worth of liberty.

²⁶See "The Tendency to Equality," in *A Theory of Justice*, especially pp. 100-104.

²⁷Rawls, *A Theory of Justice*, p. 73 (emphasis added).



A. Reasonable and Head-Start Opportunity.

The first sense of opportunity is what I will call 'reasonable opportunity' (RO). Reasonable opportunity is the opportunity one has in light of the primary goods one can expect to acquire throughout one's life.²⁸ This kind of opportunity requires the evaluation of one's reasonable expectations and the adaptation of one's life plan based on those expectations. The second sense of opportunity is what I will call 'head-start opportunity' (HSO). Its distinctive feature is that it is opportunity which is, in a sense, available independently of one's holdings of primary goods. One example of HSO would be a guaranteed level of public education provided through tax subsidies. It is an opportunity to explore and develop one's talents so that one can see what one can do. The claim, then, is that one is forced to revise her plans in light of *how* she can expect to do only after she has had significant opportunity to develop her talents and abilities. Although HSO would cover a wide range of learning and developmental opportunities, some of the most important for this discussion are opportunities to learn how the political process works, the variety of different political goals one might seek to achieve, and perhaps different strategies one might use to effectively voice and advance one's concerns.²⁹ I will argue below that, given Rawls's definition, the value of political liberty depends on fair equality of HSO.

²⁸Rawls's discussion of "the principle of redress" suggests that this kind of reflection on and revision of expectations should start a short time after one's early school years. See *A Theory of Justice*, p. 101. I would argue that the relevant time span should depend on a number of different factors such as the aspect of my life plan that is under consideration, my age, or my native intelligence. A more complete analysis of RO and HSO would focus on a number of important aspects of well-being and draw attention to the special character of each.

²⁹To take an example of HSO from another setting, Norman Daniels has argued in *Just Health Care* that fair equality of opportunity in our society demands that certain individual health care needs be met. The criterion for discriminating between health care wants and needs is based on the notion of normal species functioning. Although this concept is admittedly a little vague, I think that it is intuitively clear what is meant: the ability to walk, digest food, see, hear, etc., are all capabilities which allow one to function within our society. On the other hand, the inability to do any of these things clearly puts one at a disadvantage when it comes to the ability to compete. If we are committed to fair equality of HSO, it is evident that the effects of these kinds of deficits must be mitigated as much as is possible. Thus the opportunities for a basic education and basic health care are, in our society, both prerequisites for being able to compete with other people.



For fair equality of social and economic opportunity and for fair worth of political liberty to be more than formal, they both require a capability based evaluation. I stated above that the capability based approach to evaluating advantage focuses on comparisons, not of what goods and formal liberties people have, but of the capabilities and functionings these goods and liberties actually allow people to achieve. The first thing we need to convey here is the meaning of 'capability' and 'functioning.' These are technical terms introduced by Amartya Sen to allow us to speak of distinctly different aspects of a person's overall well-being. There are, of course, many different aspects to a person's well-being: having a sound body, people who love us, and the freedom to act on our deepest convictions all constitute facets of our well-being. Further, some of the aforementioned examples can be further broken down into more fundamental needs and desires. Sen's terminology is meant to capture those different aspects: "*Functionings* represent parts of the state of a person—in particular the various things that he or she manages to do or be in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection."³⁰

The intuitive idea here is that who we are and what we are capable of doing is partially dependent on three things: (1) internal factors such as whether we have healthy minds and bodies, (2) external factors which prevent us from becoming or doing things, and (3) on decisions we make concerning the talents we choose to develop. For example, a person born with great physical strength and dexterity may decide to develop those skills to become an athlete because athletic programs exist and she is allowed and encouraged to participate. However, her decision to do so may come at the expense of neglecting other aspects of her well being such as developing her musical talents. Further, her earlier decisions to commit to a certain path may limit her future range of choices. A clear

³⁰Amartya Sen, "Capability and Well-Being," In *The Quality of Life*, eds. Martha Nussbaum and Amartya Sen, New York: Oxford University Press, 1993, p. 31.



example of this kind is a person who is born into a working class family, brought up to believe that his only reasonable option for employment is factory work, and who consequently neglects his studies. Supposing he gets a factory job, marries, and fathers some children, there is no doubt that these outcomes will severely limit his future options. Thus his employment options are limited by his earlier neglect of his education while, at the same time, his commitment to his family along with his lack of time and savings prevent him from learning new skills. Using Sen's terminology, we may then say that this person's current functionings limit his future capabilities.

The value of Sen's capability approach to an account of substantive liberty and substantive opportunity is clear. It allows us to focus on both structural and internal factors that limit individual capabilities to achieve. Further, it allows us to change our focus from the index of resources an individual has to the things that index allows that person to do given structural and internal constraints. In the next section, I use these tools to show how Rawls's commitment to fair equality of opportunity requires a capability based approach.

B. Capabilities and Fair Equality of Opportunity.

For Rawls, fair equality of opportunity amounts to this: that although there is a natural disparity between persons in regards to distributions of natural assets, "those who are of the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success *regardless of their initial place in the social system*."³¹ The most natural reading of this passage is that people's opportunities are influenced by the situations they are born into and the qualities they are born with. On this reading, fair equality of opportunity requires that the effects of these variables be mitigated as much as possible in order to allow citizens of the same level of talent and ability (and willingness to use them) to compete with other under fair conditions for scarce resources.

³¹Rawls, *A Theory of Justice*, p. 73 (emphasis added).

Now there are two interpretations of this passage which we might make. The first is that each person is to have access to the same amount of resources which she can then use in whatever way she wants. Using the example of education at a public school, for example, each person is given the opportunity to attend and is responsible for whatever she makes of that chance. If she chooses to squander that opportunity, that is her problem. This interpretation accords with RO in the sense that it requires each person to take personal responsibility for how she uses her resources. The problem with interpreting the passage in this way is that it ignores the fact that people's initial starting points may prevent two people with the same talents and abilities from effectively using the same amount of resources to develop those talents and abilities.

For example, supposing we have two children, roughly equal in talents and abilities, one who benefited from a "head-start" educational program while the other did not. We would probably expect the head-start student to be better prepared to make use of the available resources to develop her talents and abilities upon entering elementary school. This is not to say that the other student could not catch up. It is only to suggest how the ability to take advantage of developmental opportunities at any given point in a person's life is often affected by the previous presence or lack of other opportunities. The conclusion I draw from this is that the commitment to equal opportunity may require more resources for one student relative to the other at different points in their education. The message in this case is clear: we should not simply assume that the same index of resource investment for each student at any given point in their education would result in the same level of achievement and hence future opportunity for each.

Another example regards a third student of equal intelligence who has a mild learning disability. He would probably also require more resources to achieve more or less similar results. The point here is that the failure to identify these differences in ability to convert the same amount of resources would result in formal and not substantive equality

of opportunity. Since Rawls explicitly rejects such a formal opportunity as inadequate for the purposes of justice, we are forced to look for another interpretation.

On the second interpretation, there must be a commitment to ensure that people with the same talents, abilities, and willingness to use them are given the individual resources they need to ensure *as much as possible* that they have the opportunity to overcome the disadvantages they have relative to other citizens within the same society. Now some of these factors are internal, more or less fixed characteristics of the individual. For example, we may not be able to do much, if anything, to compensate for variations in natural intelligence and physical capacities. Other internal factors may lend themselves to correction through more personalized attention to the development of their capacities and functionings. An example here would be people with mild learning disabilities not indicative of innate intelligence. Finally, there are external factors which may limit personal capabilities. The most obvious example of this kind would be blatant discrimination based on morally arbitrary criteria such as race, color or sex. All three types of obstacles are important to an analysis of fair equality of opportunity. We can thus see that in order to meet the requirements of Rawls's demands, fair equality of opportunity must be measured in accordance with a capability based approach. Therefore, Rawls must be committed to fair equality of head-start opportunity.

C. Fair Equality of Political Opportunity.

The above analysis is relevant to my account of fair value of political liberty for two reasons. First, whenever the value of political liberty rests on holdings of other primary goods such as income and power, the fairness of unequal value will rest on whether the distribution is in accordance with the difference principle and whether all citizens had fair equality of opportunity to compete for those goods. I have argued that fair equality of opportunity only makes sense given a capability based approach to assessing and preparing citizens to compete. The fairness of unequal political liberty therefore depends, in part, on whether all citizens had fair equality of head-start

opportunity. Second, Sen's capability approach focuses attention on external or social factors that can have differential effects on individual abilities to make use of available resources. This approach compels us to look both at those factors that prevent people who want to enjoy equal rights from participating in the political process from doing so and also those factors that undermine the desire to participate. That is to say, we must know how the social context and other constraints prevent some persons from participating in the political process as free and equal citizens. If we can identify obstacles to equal worth of political liberty—measured by individual capability to effectively participate in the political process—we can then ask whether these obstacles are amenable to change or are inherent in the system. If the former, we can focus on formulating strategies for removing these obstacles; if the latter, we will have identified a fundamental incompatibility of the system in question with the demands of justice.

For Rawls, the sphere in which social, political, and economic activity takes place is described as the 'basic structure' of a society. The basic structure is defined as "society's main political, social and economic institutions, and how they fit together into one unified system of social cooperation from generation to the next."³² The basic structure has a profound impact on all aspects of our lives, because it sets the limits on acceptable behavior in the social, political and economic spheres. Whether we are explicitly aware of the full extent of its influences on us or not, we respond to it by shaping our expectations and behaviors in ways that reflect our social positions, resources, and aspirations in relation to those same aspects of others in our society. We thus recognize how the basic structures limits our actions in light of what the system allows. For example, if I feel my employer is taking unfair advantage of my coworkers and myself, I may evaluate the courses of action open to me and to my employer. If I am aware of state rulings undermining employee rights to organize and strike and upholding employer rights to fire

³²Rawls, *Political Liberalism*, p. 11.

people attempting to organize, these aspects of the basic structure will probably play a significant, if not decisive, role in shaping my behaviors, expectations and aspirations. Accordingly, an evaluation of a given society and its relationship to the demands of justice requires particular attention to the basic structure and its effects on fair equality of opportunity and fair value of political liberty.

Thus far I have argued that fair equality of opportunity requires attention both to the distribution of resources and the different abilities of identifiable groups to make use of these resources. We must pay attention both to characteristics of the individual and how the institutions in our culture affect individual capabilities. The preceding discussion of political liberty and social and economic opportunity indicate how they must be seen as complementary parts of a bigger picture. Distributions of wealth and power can have profound effects on individual ability and opportunity to exercise political liberties. As Daniels notes,

The wealthy and the poor are equally free to express (non-libelous) opinions in the appropriate circumstances. Yet, the wealthy have more access to and control over the media and so are freer to have their opinions advanced.... What is worse, even greater inequalities in liberty emerge when we note that there are combined effects. For example, if the wealthy have greater liberty to affect the political process, then they may also acquire greater influence over the schools and what is taught in them. But the combined effects of control over the schools and the media give the wealthy vastly greater 'freedom of expression' than those less well-off.³³

Furthermore, the "inequality does not result primarily from abuses, like bribery. Instead, the inequality derives from the (usually) legal exercise of abilities, authority, and powers that come with wealth."³⁴

In the following section, I begin with an overview of Rawls's analysis of the basic structure and its role in a well ordered society. I then discuss a pivotal problem that the basic structure must take into account: namely, how aspects of capitalist democracy in the

³³Daniels, "Equal Liberty and Unequal Worth of Liberty," p. 257.

³⁴Ibid., p. 257.

United States encourage and sustain inequalities in power and how these inequalities obstruct movement towards fair equality of opportunity and fair value of political liberty.

III. The Basic Structure and Fair Value of Political Liberty.

An important goal in this paper is to encourage a view that recognizes how power relations between citizens are built into the social structure and influence the kinds of choices and strategies that individuals will choose to meet their given ends. In this section, I focus on the structure within which political struggles and debate currently take place in the United States. I begin by defining what I mean by power relations and explaining how this conception of power suggests a particularly useful framework for articulating a positive conception of individual liberty and opportunity. The primary goal of this section is to describe how background institutions and social conditions within our society make it difficult and perhaps even irrational for workers to fight for the kind of long term structural changes a Rawlsian conception of justice requires. The central claim is that structural incentives lead workers to settle for the short term satisfaction of material well-being by making the short term costs of more fundamental change too high for most people to afford. Thus, even though workers may see the conditions of their labor as unjust, the high cost of fundamental change makes it rational for them not to struggle against these conditions.

"The initial focus,..., of a political conception of justice is the framework of basic institutions and the principles, standards, and precepts that apply to it,..."³⁵ The goal of justice as fairness is to determine and establish a basic structure that allows all citizens to participate freely and equally in the political process. Background conditions are supposed to protect certain rights and prescribe the conditions within which we are to conduct economic and social activities. A central idea here is that it is neither a reasonable nor a desirable goal for a society to orchestrate and coordinate the activities of individual

³⁵Rawls, *Political Liberalism*, p. 11.

citizens. Rather, the goal should be to create a space in which people are allowed to do what they want provided that they follow rules of fair play. Background institutions are supposed to guarantee, as far as possible, that a distribution of social, economic, and political goods will be just no matter what it turns out to be.³⁶

The progression towards determining and establishing the basic structure has four stages or levels: the original position, the constitutional, legislative and judicial. At the level of the original position we decide on the fundamental principles that are to guide our deliberations. The two principles of justice are determined at this level. We then use the first principle, that of equal liberty, at the constitutional stage. Here the goal is to establish "a secure common status of equal citizenship and [realize] political justice."³⁷ The second principle comes into play at the legislative stage, where it "dictates that social and economic policies be aimed at maximizing the long-term expectations of the least advantaged under conditions of fair equality of opportunity, subject to the equal liberties being maintained."³⁸ Finally, the last stage "is that of the application of rules to particular cases by citizens generally."³⁹

Rawls recognizes two kinds of constitutional essentials. They are:

- a. fundamental principles that specify the general structure of government and the political process: the powers of legislature, executive and the judiciary; the scope of majority rule; and
- b. equal basic rights and liberties of citizenship that legislative majorities are to respect: such as the right to vote and participate in politics, liberty of conscience, freedom of thought and of association, as well as the protection of the rule of law.⁴⁰

The problem with this statement of constitutional essentials is that it describes an idealized situation which seems quite remote from the realities of our own circumstances.

³⁶Rawls, *A Theory of Justice*, p. 274.

³⁷Ibid., p. 199.

³⁸Ibid.

³⁹Ibid.

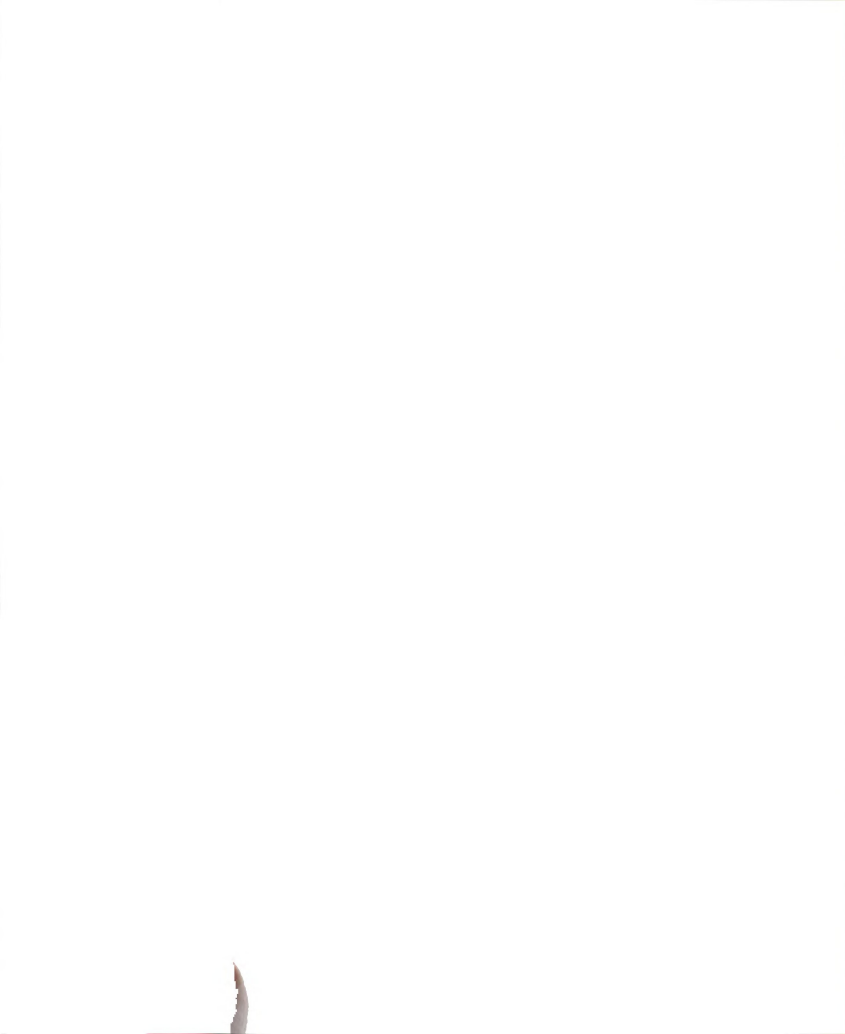
⁴⁰Rawls, *Political Liberalism*, p. 227.

That is, supposing we determine that our own social and political circumstances are lacking from the standpoint of justice as fairness, it is not altogether clear how we are to effect a transformation to a more just society. With this problem in mind, the goal in this section is to come closer to determining the background conditions required by the two principles of justice. Please note that I will not be concerned to evaluate all of the constitutional essentials in this manner. That project would be far too broad and ambitious for my concerns. Rather, I will be concerned only with the problem of ensuring fair worth of political liberty.

The approach I take proceeds in two steps. First, I present a particular understanding of power relations. Here I will use Thomas Wartenberg's *The Forms of Power* to ground the discussion. The second step concerns identifying different spheres of society where inequality in power occurs. In particular, I will focus on the family and the workplace. Here I will use Cohen and Rogers's analysis of social and political structure in the United States to draw attention to these areas. I then examine how inequalities which occur within those spheres translate into more general political inequalities. The next question is whether those inequalities are extensive enough to result in unfair worth of political liberty. If the answer is yes, then we need to look at (1) the qualitative aspects of those structures that lead to inequities, (2a) whether those aspects can be changed so as to retain the basic structure but alter the power inequalities outside of those spheres or (2b) whether the basic structure itself would have to be changed to accomplish that end.

A. An Analysis of Power.

In this section I argue that power relations can constitute a formal barrier to fair equality of opportunity and fair value of political liberty. This claim will seem odd to many people because the inability to make use of liberty is most often attributed to a deficit of substantive or positive liberty—at least, when there is an absence of overt discriminatory practices. While I agree in part with the more common view, I disagree with the limits traditionally placed on which kinds of obstacles should count as definitive



of liberty. In particular, I follow the view of feminists such as Susan Okin who point out that systemic features of our social, political and economic structure present formal obstacles to equal opportunity and equal political liberty to identifiable groups of people.⁴¹ The key question I wish to draw attention to is whether the distinction between negative and positive liberty has any practical utility in discussions of opportunity, discrimination, and bias.

Discussion of positive and negative liberty relies on a distinction between situations where there are no formal constraints to pursuing a desired course of action and situations where both formal constraints are absent and resources needed to pursue that course of action are provided for those who lack them. For example, suppose all literate citizens over the age of 18 have the right to participate in the political process. Suppose further that more poor than rich people tend to be illiterate and that this is because there is no right to a state provided education. We might further suppose that the reason there is no public education is because constitutionally protected property rights prevent the state from collecting taxes for this purpose. When we ask whether those who fail the literacy requirement lack formal or substantive liberty, we will have to look at the basic structure of the society in question. Because property rights have priority over educational rights, we may say that they lack only substantive liberty. The reason is that although all citizens have a right to vote, the ability to make use of that vote requires resources to which they presumably have no right. Since it is the lack of resources that prevents them from exercising their rights as citizens, we therefore say they lack only substantive liberty.

The purpose of this example is to illustrate Rawls's assertion that "the basic liberties must be assessed as a whole."⁴² We cannot simply assess one liberty or right independently of others. When we recognize this fact, we realize that claims about

⁴¹Although Okin draws direct attention to the concerns of women, I believe her approach generalizes to other groups as well.

⁴²Rawls, *A Theory of Justice*, p. 202.

negative and positive liberties often amount to claims about the relative priority of some rights over others. In the above case, strong claims to property rights overrode weaker claims to educational rights. Further, the conflict between these two rights undermined the worth of a third right, the right to vote. The example also illustrates two additional points. First, it points out how the basic structure can protect a particular kind of discriminatory practice; in this case, allowing private investors to use their money to discriminate against targeted groups of people. Second, it suggests how talk about positive and negative liberty only makes sense when we assume a set of established background conditions. Thus it illustrates the limited utility of the positive/negative liberty for determining those conditions. When private property rights always override state authority to mitigate any negative effects the exercise of those rights do or may lead to, the practice of using people's lack of resources to discriminate against them will, in general, be supported.

Justice as fairness does not take the priority of property rights as a given, but rather places the priority on a commitment to fair value of political liberty and fair equality of opportunity: "we start with the basic structure and try to see how this structure itself should make the adjustments necessary to preserve background justice."⁴³ The example thus serves to illustrate the kind of negative effect that just background conditions would have to protect against and suggests the kinds of guarantees that justice as fairness would have to seek. In particular, background conditions would have to guarantee distributions of income that prevent the possibility of using inequalities in income distributions from resulting in inequalities in value of political liberty and equality of opportunity. Because the traditional conception of negative and positive liberty ignores the relationship between liberty and background institutions, it loses its relevance when the discussion turns to the basic structure itself. We can speak of either kind of liberty as

⁴³Rawls, *Political Liberalism*, p. 268.

concerning obstacles and their absence or presence. The important question concerns the kinds of obstacles justice as fairness would have to be concerned with. The answer is going to depend on which liberties have priority over others and how the most important liberties are balanced. In justice as fairness, fair value of political liberty is given the highest priority and all other liberties are evaluated against its demands.

We have already noted several potential obstacles to an individual's achieving fair value of political liberty. Unequal distributions of income, unequal access to an adequate education, and inadequate attention to differences in abilities to make efficient use of primary goods—due both to factors internal to the individual and structural biases external to the individual—can all reduce political efficacy and therefore reduce value of political liberty. We have also noted a tradition of excluding many of these obstacles from considerations of justice because their effects cannot be attributed directly to identifiable individuals. Once we reject that exclusion as arbitrary and unjustified, any further evaluation of the basic structure must be conducted in light of the demands of justice as fairness and the features of the basic structure that lead toward or away from their satisfaction. When we turn our attention to the political process in the United States, we are confronted with the fact that effective political voice requires resources beyond the means of most working men and women. The basic structure allows the use of wealth and social position to determine the conditions under which other people labor, the proportion of income other people must pay in income taxes, the amount of pollution other people must tolerate, the list goes on. Further, the exercise of this inequality that leads to these results is allowed within the 'fair' constraints of the basic structure of our political and economic system.

Up to this point, I have merely given a sketch of how the basic structure can lead to inequalities in the value of both political liberty and opportunity. Naturally, an adequate account of the basic structure's role in a well-ordered society must pay attention to its influence on power relations. In particular, we need to be able to determine how social

context creates inequalities in power and how these inequalities affect individual opportunities and choices.

In *The Forms of Power*, Thomas Wartenberg maintains a distinction between two different concepts of power: 'power-over' and 'power-to.' Generally speaking, I will take 'power-to' to refer to an agent's ability to effect changes on her environment and 'power-over' to refer to an agent's ability to influence the choices available to another agent and hence affect her behavior. The important questions for the purpose of my inquiry are, How do people come to have power and what is it that allows them to influence the choices and behaviors of others? And how does the basic structure and other social relations shape the distribution and operation of power within that society?

Wartenberg's analysis begins by pointing out that a power relation is an ongoing relation between two or more people in which there is always a background of continuing action and behavior by the agent and other agents.⁴⁴ A power relation presupposes an identifiable relationship between identifiable individuals or groups or classes of individuals. More importantly, this relation constitutes a social order in which people learn rules for determining which courses of action will bring about which reactions from other agents around them. For example, an effective legal system presupposes a social order in which a predictable threat of force exists to threaten citizens and prevent them from behaving in certain ways. For the threat of force to have any effect on behaviors, citizens must perceive the threat as real, hence the need for enforcing agents, judges, and prison guards who are believed to act in predictable ways. Further, there must be an expectation that other citizens outside of the judicial system will also act in ways that reinforce the authority of the enforcement, judiciary and penal systems. A legal system that functions in this way forms one of the background institutions that shapes the behaviors, beliefs, and desires of citizens.

⁴⁴Thomas E. Wartenberg, *The Forms of Power: From Domination to Transformation* (Philadelphia, Temple University Press, 1990), p. 7.



A power relation like the legal system in the United States constitutes a 'power-alignment.' Specifically, A field of social agents constitutes an alignment in regard to a social agent if and only if, it meets the following criteria. First, their actions in regard to that agent are coordinated in a specific manner. Second, the coordinated social practices of these social agents need to be comprehensive enough that the social agent facing the alignment encounters that alignment as having control over certain things that she might either need or desire.⁴⁵

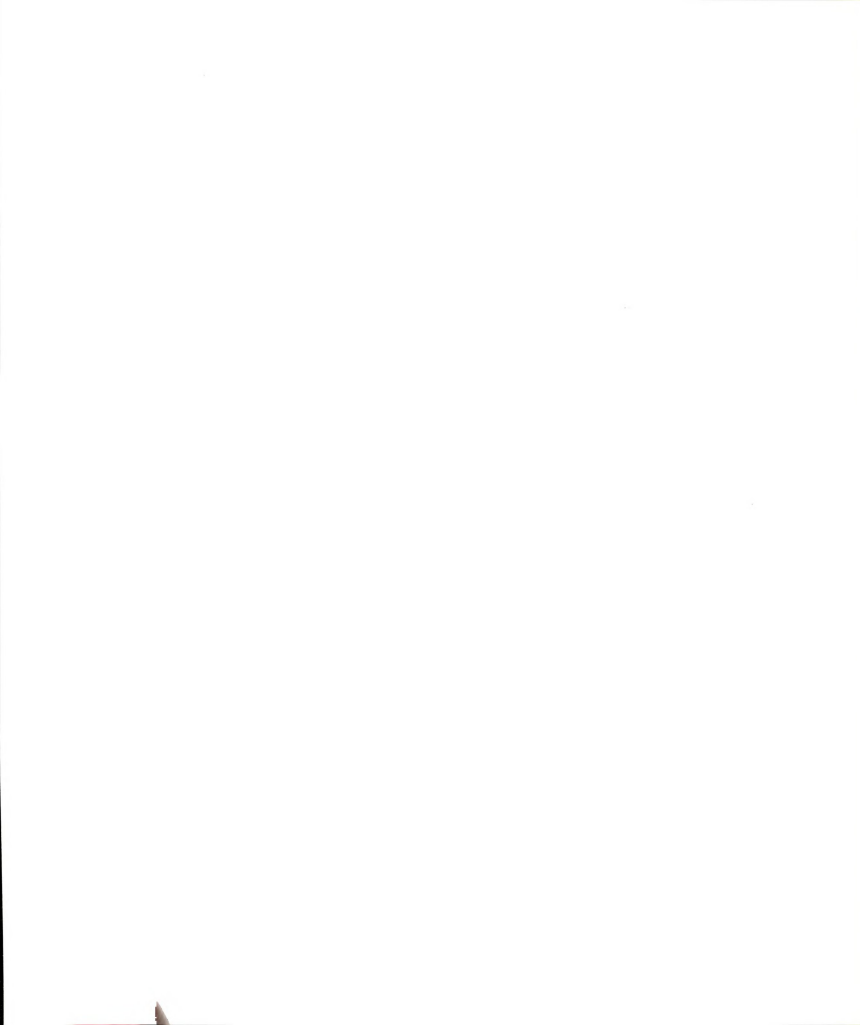
Another important power-alignment in the United States is the capitalist democratic system. This system is partially defined as the presence within a single social order of private property, labor markets, and private control of investment decisions, along with formal organizations of political expression such as political parties and regular elections.⁴⁶ All of these features are governed by rules that constrain social activity in particular ways, that is, they are determined in part by the basic structure. At the same time, individual and group behavior within that system of activity influences the character of the basic structure. By saying this we openly acknowledge that our social order is not 'natural' in the sense that we recognize it as a product of human activity which is alterable by human activity. Indeed, we noted above that Rawls's entire project is predicated on this fact. As such, an analysis of power relations play a central role in helping us to understand the demands of justice as fairness within a given society, specifically in the United States.

Wartenberg's 'action-environment' and 'action-alternatives' are two particularly useful concepts for an analysis of power. Much like Rawls's 'basic structure,' the concept of the 'action-environment' describes the context or structure within which an agent exists as a social actor.⁴⁷ On the other hand, an action-alternative is defined as the "actions

⁴⁵ibid., p. 150.

⁴⁶Joshua Cohen and Joel Rogers, *On Democracy*, (Middlesex: Penguin Books, 1983), p. 48.

⁴⁷Ibid., p. 80.



specified in terms of the options available to [the agent] in her action environment.⁴⁸ Thus we can say that a course of action is an action-alternative if and only if there is *reason* for an agent in a given situation to follow that course of action in the situation in which she finds herself.⁴⁹ The importance of the 'action-alternative' concept is that it allows us to go beyond Rawls's sketch of the social situation and assess the real alternatives available to a particular agent. That is, it allows us to build on Rawls's basic assertion that "we cannot tell by looking at the conduct of individuals and associations in the immediate (or local) circumstances whether, from a social point of view, agreements reached are just or fair. This assessment depends importantly on the features of the basic structure, on whether it succeeds in maintaining background justice."⁵⁰

Both concepts provide us with important tools for analyzing the contexts in which people make decisions, the decisions are open to them in that context, and the constraints that prevent them from having other reasonable alternatives. As in our discussion of Sen, we also note that the agent's evaluation and understanding of the situation play crucial roles in determining the alternatives she has and her capability to act on them.⁵¹

Wartenberg's analysis complements Sen's in that the action-environment can be seen as a particular conception of the field wherein we can assess an individual's capabilities, while the term action-alternative emphasizes the effects of knowledge and belief on individual capabilities. Lastly, when we apply these two notions to the idea of functionings, we reemphasize the cumulative effects of a person's starting place and her subsequent decisions on future capabilities, options as well as her beliefs about her capabilities and options.

Wartenberg's distinctions simplify our task of social analysis somewhat by providing room for debate over the relevant elements to a particular action environment.

⁴⁸Wartenberg, p. 80.

⁴⁹Ibid., p. 81.

⁵⁰Rawls, *Political Liberalism*, pp. 266-67.

⁵¹Ibid., p. 82.

Our answers, I suggest, are going to depend on our particular purpose. For example, at a most abstract level, we can think of Rawls's original position as a particular construction of an action-environment with its own set of action alternatives (although an admittedly small one). There the environment consists of equally situated citizens behind a veil of ignorance whose action alternatives are to make a decision regarding fundamental principles of justice. Similarly, Rawls argues for particular defining features of action-environments and alternatives at the constitutional, legislative and judicial stages.

My own concern is to understand how the action environment of the typical work place in the United States affects individual worth of liberty. My contention is that it doesn't make sense to look at, say, employer/employee relationships except within the broader social context. What I shall do is proceed, like Rawls, from a more abstract level to the more concrete. I will think of each subsequent level as a component of an all inclusive action-environment. My initial level of abstraction will begin with a discussion of the broader institutions which define our society. Here I will rely on the analysis of Joshua Cohen and Joel Rogers. I will then go beyond Cohen and Rogers's analysis to discuss the work place in general. I will be particularly concerned to look at the major factors which allow one to bias the political process in one's favor. To this end I will be asking three questions: which factors can be mitigated, how can they be mitigated, and how much must they be mitigated to reach the goal of ensuring the fair value of political liberty. For those factors which are resistant to change, our question must be how we are to deal with their effects.

B. Structural Constraints On Political Liberty in the United States.

Cohen and Rogers are concerned to analyze the features of our political and economic system so as to provide greater understanding of political behavior:

It is clear that within capitalist democracies there are profound underlying structural inequalities that shape the normal course of politics. What is less clear is how that normal course is possible at all. How is it that politics in a capitalist

democracy can proceed at all without the underlying inequalities themselves becoming a central object of political conflict? Why do people consent?⁵²

The central claim is that political behavior is shaped by desires, goals and beliefs and that these factors are themselves shaped by central features of culture. In particular, we learn on the one hand that certain behaviors are encouraged by material rewards and the approval of those in the community. On the other hand, we learn that some behaviors are discouraged either by direct prohibition and coercive threat or by seeing less direct negative consequences which those behaviors bring. This is not to say that some one individual or group of individuals 'conspired' to make the system what it is. It is simply to say that the system engenders power differentials and that conditions of deliberation make it rational for people to endorse policies reinforcing those differentials. More specifically, it is the claim that "capitalist democracy is in some measure capable of satisfying the interests encouraged by capitalist democracy itself, namely, interests in short-term material gain."⁵³ Using Wartenberg's terminology, then, we say that our capitalist democratic society constitutes an action-environment that encourages certain action-alternatives as more rational than others. Cohen and Rogers's analysis goes a long way towards identifying and describing the features of that environment and those alternatives.

Following Cohen and Rogers, I hold that a full understanding of political behavior requires us to look at the social economic space in which people make these decisions. That is, in order to decide upon the legitimacy of political determinations, we need to examine the action-environment that these decisions are made in and the action-alternatives that are open to people when they make their decisions. If it can be shown that they vote for maintaining the status quo because their options are sufficiently narrowed to the point where such a vote is the only rational choice under those conditions, then we will have opened the door for making a case for looking at alternative social arrangements which would be fairer for all citizens.

⁵²Cohen and Rogers, *On Democracy*, p. 51.

⁵³*Ibid.*, pp. 51-52.

C. The Action Environment.

The first structural constraint of the action-environment is a commitment to only formal or procedural political rights for all citizens and workers. What this means in practice is that, although fair value of political liberty may require constraints on distributions of wealth, there is not a commitment to determine (let alone implement) limits in distributions to protect fair value of political liberty. A movement to protect the fair value of political liberty would require massive changes in the political and economic system and sustained public commitment to enact those changes. For an agent to appreciate the practical problems such a movement would face, there is a need to deliberate over of a number of alternative courses of action and these alternatives can only be fully appreciated against the backdrop of structural constraints.

The second structural constraint is the priority of capitalist interests. As a capitalist society,

profit provides the motive for investment and investment decisions are preeminently the decisions of competing units of capital. Capitalists earn profits by, among other things, hiring labor at wages that permit the extraction of profit. Those whom they hire typically have no other assets than their ability to work. As a result of their control of investments, the satisfaction of capitalist interests is a necessary condition for the satisfaction of all other interests within the system.⁵⁴

Now as long as we rely on voluntary cooperation as the basis of labor relationships, there are clearly limits to how far these other interests can be subordinated. People have general expectations of what the system is capable of delivering and trends which show an increasing failure to deliver the goods could conceivably cause people to openly rebel. Indeed, a compelling argument can be made that whatever work standards and welfare concessions currently exist, came into being because of just such historical circumstances. On the other hand, the fact that these standards and concessions are either minimal or otherwise ineffectual attests to the influence capital has over other interests. Indeed, since

⁵⁴Ibid., p. 52.

welfare and other state provided programs are dependent on the activity of capital, background conditions support an 'equilibrium' between labor and capital interests that tilts heavily towards the satisfaction of capital interests.

The third structural constraint for workers is one of dependency. This dependency makes the future of any given worker uncertain. For

while present profits are a necessary condition for future well-being, they are not a sufficient condition. Material uncertainty remains in the society, since investment decisions remain out of reach of social control.⁵⁵

Excepting unusual circumstances, a company can generally pick-up and move or even shut-down at the whims of the owners. Threats to move to another state or even another country, for example, are common tactics to gain concessions from employees and the state. This mobility of capital undermines employee leverage. Even where tactics such as refusing to work could have an effect, they require certain background conditions to be effective. The ability to organize and strike, for example, is either directly or indirectly influenced by whether the state recognizes such a right and whether laws exist to protect others from encroaching on the jobs of strikers.

Three crucial components of the action-environment are thus the lack of fair value of liberty, the dependency of worker interests on the satisfaction of capitalist interests, and the material uncertainty that the lack of social control over capital introduces. There is little question that the lack of material security is undesirable, and there is little question that different background conditions could provide a more secure economic environment. Why, then, don't workers struggle towards achieving such changes? Again, I propose that there are a number of reasons which are built into the background conditions of our culture.

One reason is that the ability to make sound political decisions requires access to reliable primary information. For example, workers deliberating whether to strike for

⁵⁵Ibid., p. 53.

better wages or benefits generally lack detailed knowledge of the specific economic state of their field and current trends in the market. While this information is crucial for bargaining from a position of strength, there is not a readily available, reliable source nor the resources to conduct research for one's self. Therefore, people who want to make informed decisions must either have the resources or must be able to combine resources with others to get this information. Middle and lower class people do not generally have income that they can expend in this way. Second, effective access to legislators is often predicated on whether one has made substantial contributions to a legislator and/or whether one's service to society is valued by that legislator. Although anyone can call her legislator's office and express her opinions, few have the ability to speak directly with a legislator for extended periods of time and have their views taken seriously. Middle and lower class people generally do not have this kind of access to the political players. Third, the ability to make one's views heard in the public arena often depends on whether one has surplus income to expend for media coverage.⁵⁶ Fourth, effective political action requires the ability to form coalitions with large numbers of individuals who share common interests. Successful coalitions must be able to formulate clear plans of action and coordinate their activities effectively. This ability requires both the expenditure of material resources and the availability of strategic information.⁵⁷ Here, again, capitalists have a clear advantage because their ends are more easily specified and because they have a much better understanding of the system in which they seek satisfaction of those interests, i.e., their own operations, the conditions of the industry, and the economic situation in general. They also have more liquid assets for acquisition of vital information. In addition, because they are generally a small number of operatives, their actions are easier to coordinate.

Finally, there is the "free-rider" problem. The problem here concerns whether or

⁵⁶Of course, one important piece of evidence for this claim is found in the enormous amounts of money politicians spend on their campaigns.

⁵⁷Ibid., p. 60.

not it is rational to make sacrifices for a greater good if you know that others who do not sacrifice will also gain from your actions. In the case of a strike, for example, one or more workers may decide to keep working and allow others to sacrifice their immediate income for future concessions. If the strikers succeed, all will benefit equally—including the scabs. Furthermore, it may turn out that the strike could fail and that someone else may simply take your job from you. In that case, you will again have lost. Taken together, conditions of uncertainty about the behavior of others and the state's failure to protect crucial worker's rights thus make it rational for workers to "take what's being given." As Cohen and Rogers point out, this problem is exacerbated when effective political agency requires the coordination of large numbers of people. This requirement creates a different action-environment for workers than for capitalists. It is harder for workers to organize because of the larger number of people whose activities must be coordinated and also because the rewards of effective agency must therefore be distributed to more people. Hence, the immediate payoffs for the two groups are vastly different. Whereas the benefits of worker's collective struggles must be diffused throughout its (large) membership, the small number of capitalists concentrates the rewards which again make it easier to garner the groups support.

On the assumption that "actors in the political arena behave in economically rational ways," the net result is that the action alternatives of workers are reduced to a rational calculus of short term material gain. This dynamic has an important impact on the bargaining process. For when "struggles over control of the workplace are transformed into purely wage-centered struggles, allegiance to those struggles can be undermined by a downturn in profits or disinvestment or massive levels of unemployment within the effected industry."⁵⁸ Workers deliberating over how to act "must first consider not only the potential benefits of a course of action, but also both the likelihood of success and

⁵⁸Ibid., p. 168.

costs of the action, including the costs of foregoing *other* courses of action."⁵⁹ But "because the formal political system cannot fully redress initial inequalities, because it tends to reproduce and compound them over time, it continues to generate those conditions of material uncertainty that first lead individuals to accede to the reduction of politics to short-term material striving."⁶⁰

To summarize, the ability to effectively participate in the political process requires access to the system, reliable strategic information, large quantities of liquid assets, clear cut goals, social cohesion with others who share your interests, and state protection of background conditions that equalize power differentials between workers and capitalists. Under current conditions, the basic structure creates a clear bias that favors the interests of capitalists by undermining rational political alternatives for workers.

Some people would object to my claim that fair opportunity for equal political liberty does not now obtain because people have formal liberty to participate. Given the foregoing account, I think it is fairly obvious that there are features of our economy and political system which prevent people from making choices that they would prefer under more equitable circumstances. Because the conditions of our social existence are constrained by rules determined through the political process and because the political process itself favors some interests over others, it is unreasonable simply to assume that these constitutional constraints are fair. The claim is that the conditions under which political choices are made have an enormous impact on which choices people will see as rational. As long as these conditions are determined by a small, relatively cohesive interest group, this group can promote and institute conditions that constrain the available choices of others. Appropriate background conditions can thus make it rational for those with less worth of political liberty to continue 'endorsing' policies that undermine their own ability to participate in the political process as free and equal citizens. For this reason, it is

⁵⁹Ibid., p. 62.

⁶⁰Ibid., p. 66.

important that the process of setting the conditions itself should be subject to scrutiny and public debate.

IV. Unequal Power, Unequal Liberty and the Social Minimum.

Four related claims have been established. We have determined that a person in the original position would want to guarantee the fair worth of political liberty. She would want this because, within a democratic society, it is only through political action that one can establish conditions that protect her interests. Secondly, we have determined that the fair value of liberty is largely dependent on the distribution of other primary goods, especially wealth and power. As such, we would want to ensure distributions of those goods that are consonant with a fair distribution of political liberty. Third, we would want fair equality of both head-start and reasonable opportunity. We would value the former because we would recognize that different individuals with the same talents and abilities need different resources to achieve the same levels of competency. Hence a commitment to fair equality of opportunity requires a capability based, head-start approach to education. We would value head-start opportunity because it would provide the knowledge needed to participate effectively in the political process. At the same time, we would see both fair equality of HSO and RO as preconditions for allowing us to engage in fair competition for jobs and income. Fourth, we would acknowledge the role inequities in power play for questions of political liberty. Consequently, we would want to identify structural sources of unequal power and seek means to neutralize their detrimental effects on the fair value of political liberty.

It should be clear from the discussion so far that a social minimum could play a crucial role in the extended Rawlsian theory. For although strategies to insulate the political process from the influence of unequal distributions of wealth and power may *reduce* the need to constrain accumulations of capital, they will not eliminate that need so long as unequal distributions of wealth and power lead to unequal opportunities for

realizing the fair value of political liberty. At the same time, the level of resources available to the least advantaged would have to be ensured through a guaranteed social minimum. For Rawls, this minimum consists of two components: (a) the amount of income, education and opportunity needed to ensure the fair value of political liberty and (b) the amount of subsistence goods required to preserve physical integrity, i.e., "those needs that must be met in order to remain a normally functioning human being."⁶¹ It is also clear that current background conditions limit our progress towards such a minimum. In this section, I will discuss two approaches to addressing the problem of the social minimum and the implications of each for fair value of political liberty. In particular, we will look at a social minimum given the background of a welfare state and of what McPherson and Krouse have called "property owning democracy." Discussion of the welfare state will allow us to evaluate means currently used to address problems of income distribution and evaluate their potential for addressing inequalities in the value of political liberty and to discuss alternatives for protecting the fair value of political liberty.

A. Fair Equality of Opportunity and Access to the Work Environment.

We should first note that as long as fair value of political liberty depends on equitable distributions of wealth, and wealth is the product of labor, fair value of political liberty for everyone would require that everyone who wanted a job could have one. Indeed, the primary task of Rawls's 'stabilization branch' is to "bring about reasonably full employment," allowing individuals freely to choose their occupations and ensure strong effective demand.⁶² While it is obviously difficult to say what this would require without knowing the precise circumstances, it seems reasonable to assume that job markets cannot

⁶¹Rawls, *Political Liberalism*, p. 7. Also see Rodney Peffer, *Marxism, Morality, and Social Justice* (Princeton: Princeton University Press, 1989), p. 14. There are two points to note here. First, the requirements of the first criterion are going to be relative to the background conditions within a particular society, while we can assume that the second refers to fairly universal conditions of existence. And second, although 'b' is given priority over 'a,' Rawls takes the satisfaction of 'b' as a given in developed nations.

⁶²Rawls, *A Theory of Justice*, p. 276.

expand indefinitely. Indeed, the rationalization of work requires us to eliminate jobs wherever possible in the name of efficiency. Given the marked success of efficiency and rationalization movements in eliminating jobs and the failure of other quality jobs to appear in their place, it seems reasonable to suppose that one future change would have to be a restructuring of the job market. In particular, we might expect a need to share jobs by reducing the individual work week.⁶³

Naturally, the conditions under which people compete for jobs are critical as well. I have already noted that the ability to compete requires a sound education (fair equality of HSO) and that it is only reasonable to expect people to settle for less than what they hoped for if they lost under conditions of fair competition. Thus, at a bare minimum, barriers such as morally arbitrary discrimination would have to be minimized or eliminated. Clearly, Rawls is committed to this goal. However, the question arises as to whether this commitment is enough to prevent inequalities in political liberty from continuing. One challenge to Rawls's commitment comes from feminist social theorists. They argue that we must remove all barriers to competition and that this requires an evaluation of existing social and economic practices to determine whether they perpetuate unequal opportunity. These theorists argue that some forms of discrimination lack the appearance of being morally-arbitrary because we tend to assume certain fixed background conditions. The claim of fair equality of opportunity becomes problematic when these background institutions systematically render certain groups of people unable to compete.

In *Justice, Gender and the Family*, Susan Moller Okin argues that many highly desirable jobs place demands on workers that prevent otherwise qualified people from competing. Gaining partnership in a law firm, for example, requires the dedication of much more time than other less desirable jobs. A prospective partner must often put in far more than a 40 hour work week. The reason why this is problematic is seen when we

⁶³Richard J. Barnet, "The End of Jobs," *Harpers*, Sept. 1993, pp. 47-50.

consider the fact that the conditions of work are socially constructed. That is, the conditions of work are determined by negotiation, more often than not from unequal positions of power, between people who have certain more or less well defined needs and abilities. This negotiation is of course an evolutionary process, one which commonly leads to more or less stable conditions. Now the pool of negotiating workers from the formative period may or may not be a heterogeneous group. If it is, then we might expect work conditions to reflect relatively heterogeneous abilities. On the other hand, if the group is fairly homogenous, we would expect the conditions of their labor to reflect different demands than those of a heterogeneous work place.

Historically, women have been excluded from many kinds of jobs. In particular, they have been excluded from engaging in 'men's' work in the professions, scientific occupations, management, and the skilled crafts.⁶⁴ These kinds of work are typically the highest paying, most powerful, and most prestigious occupations. On the other hand, "females are relegated to residual fields and to those that fit male stereotypes about the kinds of work women should do," for example, clerical and office support work.⁶⁵ Given the argument so far, we can therefore expect professional jobs to reflect the capabilities of men. Moreover, the structure of our culture has been such that most men have been expected to marry early on and their wives have been expected to take care of most, if not all, domestic labor. Consequently, most men participating in the work force have had capabilities to expend great amounts of time on their careers. We should therefore expect the demands of professional jobs to reflect the abilities of a person who didn't have to worry about taking care of children or even of themselves.

Several decades later, we have become aware of the need to eradicate the effects of discrimination in the work place. We can put laws into place that demand equal

⁶⁴George Ritzer and David Walzac, *Working, Conflict and Change* (Englewood Cliffs, N.J.: Prentice Hall, 1977), p. 99.

⁶⁵Ibid.

opportunity, but such laws will not give people with the same capabilities and ambitions the same opportunities to compete because the structure of the workplace does not reflect the capabilities of an otherwise homogenous group of people with the same skills. It reflects the capabilities of married men living in a traditionally sexist culture. Put another way, the structure of the work place is an artifact of an age when background conditions allowed and even encouraged sexism and the oppression of women. As such they reflect and replicate the conditions of that period.

In short, work expectations were built around cultural circumstances, most notably the predomination of men in the work place and a particular conception of the institution of marriage. Many of the most demanding and extrinsically rewarding jobs require applicants to devote a great deal of time, above and beyond a forty hour work week, to succeed at their job. This demand translates into an assumption that applicants have sufficient freedom from other duties to allow them to devote all that time and energy to their jobs. Who meets this requirement? Virtually no one except a married person with a spouse at home to take care of domestic affairs.⁶⁶ If this is not the case, if for instance, one is a single parent, certain jobs may be inaccessible or at least very difficult to break into. This is because the job was constructed around a particular conception of the kind of person who would fill it—not because of morally arbitrary discrimination. In this sense, the work place is not arbitrarily constructed in that it reflects the capabilities of the men thought to be *the* pool of workers. The question is, If that pool changes, does that necessarily imply that the structure of the work place should also be changed? If we are committed to fair equality of opportunity, the answer must be yes.

The claim here is that unfair equality of opportunity exists because the work environment is dominated by males. Following Wartenberg, I define domination as a

⁶⁶This assertion is corroborated by labor participation data indicating that the majority of women in the work force prior to World War II were young, single women (*Working, Conflict and Change*, p. 96). Only these women had the freedom necessary to function in the workplace. The absence of older women can be attributed to the social expectations that women marry early and remain home once they were married.

specific use of power meeting three conditions. The use of power (1) must harm the subordinate group (2) must require a specific mechanism for its instantiation, and (3) must be used (a) repeatedly (b) systematically (c) and to the detriment of the dominated agent.⁶⁷ The claim here is not that we need to identify any particular person or group of persons who intentionally constrain the choices of women. For once the mechanism is in place—in this case, the criterion for job qualifications—it can be used repeatedly, systematically, and to the detriment of the subordinate agent without any given person even recognizing it. There is therefore no need to take intentions into account. Background conditions guarantee that women will be discriminated against. Unless we consider the possibility that the conditions of labor are historical artifacts, we might accept them as simply natural features 'beyond our control.' We may even wish that we could do something to give women fair equality of opportunity in the workplace. Nevertheless, adherence to the sexist criterion of qualification and the failure to question and change the conditions of labor results in the domination of women.

We can make a similar argument concerning unskilled workers. For although unskilled workers constitute a more heterogeneous group than traditional skilled and professional workers, they generally share in certain traits which we would expect to show up in the conditions of their labor. If we look at the historical context of the industrial revolution and the formative period shortly thereafter, what we generally find are people for whom the Lockean Proviso of 'as much and as good' no longer applied. The vast tracts of land available to many early settlers quickly became private property. The unskilled worker lacked land and capital and typically had nothing to sell but his labor. His need to survive often forced him to the industrial centers. Furthermore, the low skill requirements meant that just about anyone, including children, could often do the job. Hence, anyone who complained too loudly could easily be replaced. The ability to protest

⁶⁷Wartenberg, p. 117.

effectively therefore turned on the ability to organize into a large enough group to protect one's self while causing inconvenience to the owners. But since labor organization was prohibited both by force of law and by thugs hired to intimidate workers, a culture of exploitation and domination of unskilled workers arose. Workers had little leverage to bargain and had to settle for low wages and unconscionable work conditions. Cohen and Rogers's analysis has already shown the general effects of this tradition on our particular form of capitalist democracy. Applied more specifically here, we see that exploitation of the lower and middle class is a part of our culture. Although details of the background conditions have changed, we accept the general terms of negotiation set during an age of shameless exploitation.

The conclusion here is that a moral evaluation of the workplace as an action environment requires us to look at the larger historical and sociological context. For instance, we might ask whether, given the field of choices available to a person, if it is a rational choice for her to choose what she would prefer. Consider a slave state undergoing a transition towards emancipation. Let us say that all slaves are now free to do whatever they wish without answering to their former owners. We might suppose that along with freedom they are now responsible for themselves, that is, they must make choices as to what they want to do and remain responsible for the consequences of their choices. Such a proposal may sound attractive at first glance, since freedom is 'obviously' better than enslavement. However, I will argue that the answer is not altogether obvious due to the fact that we need to know more about the social context within which the emancipated person now has to operate.

The point here is that if freedom is important only in so far it is freedom to do something that is desirable or to resist doing something that is undesirable, then the options available to a person and her perception of them determines whether or not freedom is valuable. Suppose that our newly emancipated person finds out that she cannot make a go of it on her own. For example, we might suppose that there is no land available

for settlement, that no-one will give a poor person a loan to buy land, and that there is an agreement among the towns people that no one will hire an ex-slave. Under these conditions, choosing to strike out on one's own would be a decision that it is better to starve as a 'free' person than to ensure material self-preservation as a slave. Choosing to exercise one's 'freedom' in such circumstances would require a great deal more resolve and acceptance of suffering than most people are capable of sustaining. It is not reasonable to force that kind of decision onto people and pretend that there is some real choice to be made.

Similar arguments have been made in feminist literature regarding the structural inequities built into the traditional family. For example, in the traditional family, the man has been the one to work for wages while the woman stayed home and took care of the children. While on the face of it, this seems like a fair situation, in the sense that both benefit from cooperating together, there is a systematic differential of power built into the relationship which works to the advantage of the 'breadwinner.' There are several reasons. For one thing, the person working for wages has effective control of the family's income such that the non-wage worker must rely on the other to give her a share of the money. Another reason is that the wage worker has the opportunity to develop marketable skills such that his earning potential is increased through his work. At the same time, the non-wage earner not only doesn't have the opportunity to develop new skills, but becomes less marketable in general the older she gets. We have already seen that many desirable jobs make demands on the worker such that they seem to assume that whoever holds the job either has no family duties to take care of or, what amounts to about the same thing, that someone else is at home to take care of those duties for him. Satisfaction of that condition requires that the division of labor within the traditional family remains as it is. However, it is satisfied to the detriment of the family with two working parents or the single parent. All of these conditions place women and children at a distinct disadvantage when they are faced with abusive or stultifying relationships. It might make sense to the

person who believes in freedom at all costs that she should just leave, but the reality of the situation is that she may be much worse off in terms of material well-being outside of the relationship than in. And even if she were willing to take those consequences for herself, the fact remains that she may still be unwilling to abrogate her responsibilities to her children.

Now although Okin has suggested a number of institutional changes that could lead to fairer equality of opportunity for women, it is not altogether clear whether all of these suggestions would concern a political conception of justice. For example, when she suggests that "any just and fair solution to the urgent problem of women's and children's vulnerability must encourage and facilitate the equal sharing by men and women of paid and unpaid work, of productive and reproductive labor," we are immediately confronted with the question of what the state could possibly do to encourage these changes.⁶⁸ In order to make sense of Okin's claim, we need to recognize her understanding of division of labor within the family as the manifestation of differentials in power, in particular, what she refers to as the power of "exit."⁶⁹

We can readily assimilate this understanding of power to Wartenberg's field theory of power. The claim is simply that the structure of traditional family roles results in an asymmetry in vulnerability between family members.⁷⁰ When the well-being of one individual rests directly on the actions of another, the action-alternatives available to each differ dramatically. It is relatively easy for the wage earner to view the dependent partner as a drain on his resources. He would be materially better off if the relationship were to dissolve. At the same time, the dependent partner recognizes her reliance on him. Because she would only be worse off for not making concessions, the power differential allows one partner to use the other's dependency to gain concessions towards an unfair

⁶⁸Susan Moller Okin, *Justice, Gender, and the Family* (Basic Books, 1989), p. 171.

⁶⁹*Ibid.*, p. 137.

⁷⁰*Ibid.*, p. 136.



division of labor. The unequal consequences of leaving the relationship thus result in unequal power of exit. Part of Okin's point is that this inequality is supported by background conditions such as divorce laws that make it all the more irrational, from an economic standpoint, to exit the relationship.

It is not at all difficult to see the parallel between Okin's characterization of power and dependency in the family and Cohen and Rogers's characterization of power and dependency in the world of wage work. The dependency relationship between the wife, husband and employer is a transitive one. For if the satisfactions of the wife's interests are dependent on the satisfaction of her husband's interests, and the satisfaction of his interests are dependent on the satisfaction of capital's interests, then her interests are also dependent on the satisfaction of capital's interests. Therefore, following the logic of short term economic satisfaction, she would act in ways that preserve the oppressive nature of the relationship and join her concerns with those of her husband to see that the capitalist's interests are met.

By combining Okin's analysis with that of Cohen and Rogers, we can see how the value of political liberty is compromised through the institutionalized sanction of dependent relationships. The wife can exercise her formal right to vote just as she can exercise her formal right to express dissent within the family; however, the respective background institutions slant the field in a way that threaten consequences much worse for her than for the dominant agent. Given these considerations, the primary question regarding fair value of liberty and the structure of the workplace is whether fair value of liberty is possible under conditions of material uncertainty. If equal power to exit requires equal material certainty, we need to ask what mechanisms or background conditions could best insure fair equality of material certainty.

Okin suggests a number of strategies for approaching this problem. For instance, we could imagine how state or company provided child care services would allow women

more work options.⁷¹ In order to justify state enforcement of something like child care provisions, we would have to look at the particular work requirements of our society and determine whether or not the absence of such a provision entailed the violation of constitutional rights to fair equality of opportunity and fair worth of political liberty. If justice demanded such a constitutional guarantee, and there seems to be good reason to suppose it would, it seems plausible to justify that requirement on democratic principles. Further, this requirement does not seem to point us to any particular economic order. But note that the problem we are addressing here is that of dependency on the husband and the inequities of liberty and opportunity that come with that dependency. Closer examination of the situation reveals that we have not removed dependency but merely displaced it somewhere else, namely to the satisfaction of capitalist interests.

B. Fair Value of Political Liberty and Secondary Associations.

Is there any way to remove this more fundamental dependency? In a more recent paper, Cohen and Rogers suggest that secondary associations might provide a useful tool to achieve fairer value of political liberty.⁷² They argue that current concerns to exclude the influence of secondary groups from the political sphere are fundamentally misguided. One reason is that it is virtually impossible to do so. But, more importantly, they see how other societies have harnessed the power of secondary associations to perform vital functions within a responsive and effective government. Cohen and Rogers do not deny that such groups can induce tendencies towards faction into a society; what they do deny is that such tendencies are necessary features of those groups. The key claim, one which should be familiar by now, is that whether such tendencies emerge or not depends on the background institutions that define the social context: "whether a group or group system

⁷¹See Harriet B. Presser, "Child Care as a Constraint on Employment: Prevalence, Correlates, and Bearing on the Work and Fertility Nexus," *American Journal of Sociology*, 85 (1980), 1202-1213.

⁷²An association is a group of individuals joined together to achieve a particular goal. Some examples of secondary associations would be things like environmental or labor groups.



produces faction is a function of its *qualitative features*."⁷³ When we join this assumption with the fact that secondary groups do important and productive work in some political systems, "the contention that certain qualitative features of groups account for their favorable contribution to certain specific areas of governance implicitly suggests a *general strategy* for curbing the mischiefs of faction, namely, explicit efforts to encourage forms of group representation that stand less sharply in tension with the norms of democratic governance."⁷⁴

The importance of secondary groups is that they can facilitate the coordination of a group's efforts towards particular goals. One of their strengths is that they are 'bottom up' sources of information and guidance. This feature allows them to provide a more flexible and sensitive mechanism for determining the wants and needs of particular communities and can therefore aid in shaping policies which reflect those needs. One example used by Cohen and Rogers is the 'worker's council' found in West Germany. These councils provide a close link between the interests of workers on the floor and management. They are a means of communicating, among other things, safety concerns and suggestions to increase efficiency. Their efficacy relies on a combination of state recognition and backing of their role within the company along with a tradition of cooperation between labor and management. They provide a means for workers to use their political liberty in a relatively direct and coordinated fashion.

The superiority of the worker's council approach to safety and efficiency concerns is apparent when we contrast it to our own. For while safety is a major concern in our country, work rules and regulations are generally determined in a "top down" manner. The result is that these efforts often lack coordination and sometimes work at cross purposes. Consider the following example from the area of pesticides:

⁷³Joshua Cohen and Joel Rogers, "Secondary Associations and Democratic Governance," *Politics and Society* Vol. 20 No. 4, supplement (Dec. 1992): p. 405.

⁷⁴*Ibid.*, p. 395.



General environmentalists succeeded in eliminating DDT for use as a pesticide because it posed serious ecological dangers to wildlife and to the consumer. These efforts resulted in the increased use by farmers of parathion, which deteriorates in the environment much faster than DDT. However, parathion may be very much more harmful than DDT for the workers who handle it. Because mechanisms did not exist to coordinate the resolution of problems in the work environment with those of the general environment, control of pesticides in environment came very much later.⁷⁵

Similar problems of coordination occur within the area of worker safety due to different concerns and goals of the respective agencies. For example, the success of prevention and treatment programs may depend on the coordination of the appropriate agencies.⁷⁶ While several different agencies are charged with safety issues, the legislature is charged with making the laws and providing the means for enforcement. Two current agencies charged with enforcing the various decisions are the Environmental Protection Agency and the Occupational Safety and Health Association. The sheer magnitude of the task and the lack of personnel make their job impossibly difficult. Now if managers know this and also know that most workers lack knowledge about safety hazards, it is apparent that for all practical purposes their consciences are the only enforcement they can expect to confront.

It might be objected here that I have overlooked worker's rights to file complaints with the government. Such rights do exist and yet relatively few workers actually file complaints. Thus, we might conclude from the lack of worker complaints that the workers themselves are not concerned about the rules and regulations which, as I have already implied, are the products of agencies removed from the real conditions of work. There are two points to make here. First, the objection rests on the assumption that workers recognize the hazards and risks in their work environment. This assumption is often mistaken. Unless workers recognize the risk, of course they won't complain.

Second, there is a more essential point to make: namely, that a worker who complains is making a calculated risk. Unless the anonymity of complainants is protected,

⁷⁵Ritzer and Walzac, p. 420.

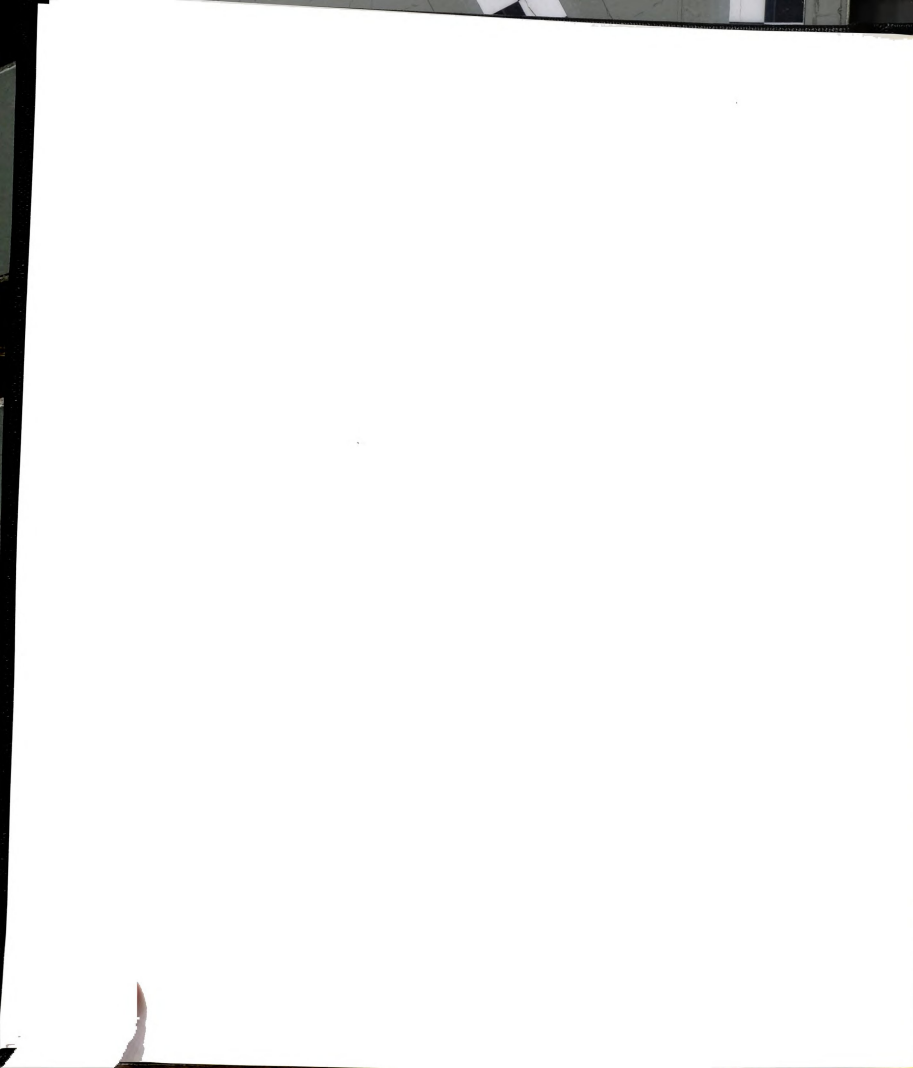
⁷⁶Ibid.

the worker can often face the consequences of a hostile work environment. The risk of provoking such a response must be weighed against both the chance of losing one's job and the possibility that one's complaints will fall on deaf ears or that the responsible agency is ineffectual.⁷⁷ Thus the perception of background institutions plays an important role in protecting workers.

Now although there is formal protection of anonymity, in many cases the context of the complaint makes it quite clear who is the likely complainant. For example, it may be relatively easy to pick out the complainant in a business with only a few employees. We must again remember that the role of the employees' beliefs plays a large role. For example, if I *believe* the boss will know it's me, it may not matter whether she actually would know or not. Returning to Wartenberg's analysis, what this means is that each work place constitutes a kind of action environment and may encourage a particular set of action alternatives to its employees. This action environment is itself situated within a larger economic and social context that determines the relative rationality of pursuing certain options over others.

Let us now look at the problem of work safety from the perspective of an action-environment where (1) there is an active effort to inform workers about safety issues, (2) there are worker's councils that serve as ombudsmen for employees, and (3) the work councils' decisions have legal force based on state recognition. The first point to note rests on the observation that although the various government agencies may still act more or less independently of one another and hence lack coordinated purposes and goals, the results of their actions become apparent at the point of application, in this case, in the work place. People charged with complying with conflicting rules and regulations are quite aware of where the conflicts lie and can often offer suggestions to help coordinate

⁷⁷See Kitty Calavita, "The Demise of the Occupational Safety and Health Administration: A Case Study of Symbolic Interaction," *Social Problems*, 30 (1983), 437-448. Also see Kathy Sawyer and Pete Earley, "OSHA Befriends Industry, but Draws New Fire," *The Washington Post* (July 5, 1983), pp. A1, A2.



efforts. The second point to note is that workers may have a great deal of autonomy in dealing with management on the importance of a particular issue. That is, there is room for negotiation and negotiation is facilitated by the equalizing effect of appropriate background conditions on the employee/employer relationship.

A third and perhaps weaker point concerns the anonymity issue. The idea here is that the council could serve as a buffer to protect individual anonymity. This could work because the council acts as the voice of the complainant but also because the members of the worker's council would presumably know or at least have the potential to know of the hazards themselves. It therefore becomes plausible that there is no one person to whom retribution could be directed. The weakness in regard to anonymity is that there would still be some circumstances where the context makes it obvious or at least likely who the complainant is. However, since this complaint applies to our current system as much or more than to the worker's council system, it is not damaging to my account of the worker's council. Finally, the possibility of using the workers themselves to police the workplace makes it much more efficient and comprehensive than our own system.

Although we can see how the secondary association approach could lead towards ensuring fair value of political liberty by creating fairer conditions for political participation, it is important to note that it does not remove the dependency component. That is, the material uncertainty that undermines the subordinate agent's bargaining position is left intact. Nevertheless, we have shown where background conditions can be altered in ways that preserve the capitalist character of the economic system while moving towards fair value of political liberty. We might suppose that similar moves for state protection of worker's rights could also lead to substantial improvements in wages. The question is whether it makes sense to think that these kinds of actions could ever be enough to lead to fair value of political liberty. To answer this question, I will now turn to the issue of a minimum wage.

C. Fair Value of Political Liberty and the Minimum Wage.

It is my contention that minimum wage work constitutes a decisive test case for justice as fairness. The application of the difference principle requires the identification of the least advantaged and specifies a criterion of primary goods as its measure. Not only does the minimum wage point to a clearly defined and readily identifiable class of individuals, but these individuals are clear candidates for the dubious distinction of 'least advantaged.' However, my concern with minimum wage workers goes beyond the mere counting of primary goods. As I have argued above, the lack of expendable income and the difficulties of organizing workers are crucial obstacles to achieving fair value of political liberty. Minimum wage workers are the least likely to organize and virtually by definition have the least liquid assets.⁷⁸ At the same time, minimum wage work generally requires the least investment in education and skills. Consequently, they can usually be replaced at will. Finally, the products and services produced by minimum wage workers are some of the least socially valued as measured by consumer willingness to pay. As such, the minimum wage worker has little political leverage for bargaining. Given all of these considerations, our suggestions for resolving the fair value of liberty problem will seem implausible unless they point towards the resolution of the problem for minimum wage workers.

When we look to possible solutions for this problem, it is important to recall that Rawls is committed to finding background institutions which require the least amount of corrective actions to ensure fair distribution of income. Further, he is clearly committed to letting market forces determine wage levels. We must also note that the basic social minimum, for Rawls, is guaranteed by transfers—not by wages: for the method of transfer is "more effective than trying to regulate income by minimum wage standard and the like. ... Since the market is not suited to answer the claims of need, these should be met by a

⁷⁸See Richard B. Freeman and James L. Medoff, *What Do Unions Do?* (New York: Ballantine Books, 1984), p. 27.



separate arrangement."⁷⁹ Thus he maintains that "once a suitable minimum is provided by transfers, it may be perfectly fair that the rest of total income be settled by the price system, assuming that it is moderately efficient and free from monopolistic restrictions, and unreasonable externalities have been eliminated."⁸⁰

Rawls thus asks us to imagine a starting point where everyone has their basic needs met. Once these needs are met, the implication is that people will work for reasons other than survival. They may, for instance, work out of a sense of duty to society and/or the need to engage in creative activity. They may also work because they desire to attain material satisfaction above and beyond subsistence level, that is, they may want income for what it contributes to their effective liberty of conscience. The implicit assumptions in this discussion are, of course, precisely the ones that Daniels showed to be unlikely: namely, that the political system could be sufficiently insulated from the influence of money and that the difference principle would not allow inequalities in income sufficient to undermine fair value of political liberty. If we reject those assumptions, the market, through its effects on wages, retains its prominent role in determining worth of political liberty.

Now we have already suggested that secondary associations could help us address some of the inequalities present in our current system—that is, provided appropriate background conditions obtained. In particular, the combination of incentives to organize along with state recognized, protected and enforced bargaining rights could produce the solidarity and authority to negotiate within a more equitable political arena. While I believe it would be desirable to take steps in this direction, I note that there are also problems peculiar to this approach that require our attention.

In this section, I propose three different scenarios of income supports aimed at bringing up the least well off. The aim is to draw attention to the attractions and the problems inherent in each. The central problem can be stated as follows. Market forces

⁷⁹Rawls, *A Theory of Justice*, p. 277.

⁸⁰*Ibid.*



determine the prices of goods. These prices reflect an equilibrium between the amount consumers are willing to pay and the cost of production. The cost of production includes the cost of raw materials, labor and the means of production. Wages are the result of another kind of equilibrium between workers and capitalists. The amount of pay workers require to perform is determined by the conditions of negotiation including the social value of their services, the relative scarcity of people with their skills, and the degree to which laws, on the one hand, acknowledge the right to organize and strike and, on the other hand, preclude actions undermining that right. The role of need also plays a large role for people at the low end of the wage scale. That is to say, under conditions of free speech and the absence of violent repression, there is probably a threshold of need below which people will refuse to work and may openly demand changes in the conditions of negotiation.

In this picture of the economy, it is obvious that no single factor can be considered independently of another. The particular character of each aspect is determined by the unique effects of the others. Now when we consider Rawls's proposal that we can remove 'need' from the equation, we should no doubt wonder (1) whether this is true, and (2) how such a radical change would reverberate throughout the rest of the system. These concerns are further compounded if we reject the claim that wage concerns can be detached from considerations of protecting the value of political liberty. For the liberty principle implies that wage differentials retain social and political significance if they contribute to differences in worth of political liberty. If inequalities in income undermine the conditions of fair equality of political liberty, we are therefore left with the important conclusion that all of these negative effects of wage differentials would have to be canceled out through income transfers. Thus transfers according to need would not be prior to wage considerations, as Rawls supposes. Rather, they would be a response to counteract the effects of large inequalities in wages brought about through market forces. If that is true, it begins to appear as though transfers take on an interesting and unwanted

character: namely, by augmenting employee incomes, they begin to look like "differential" subsidies for businesses. That is, businesses which generate less income for their employees would require greater income supplements than those which generate higher incomes. If this is true, then these subsidies would be most prominent with regard to employers of minimum wage workers.

Now when we turn our attention to the minimum wage employee, we are confronted with a number of concerns. For once we take the next step of subsidizing income through a transfer mechanism, we find ourselves in the interesting position of (1) providing incentives for business not to pay their employees as much as they otherwise might and (2) in effect subsidizing industries which do not make much money.⁸¹ This raises some interesting question regarding the desirability of using a transfer mechanism rather than a minimum wage system to support income. Consider the following example. If a company has to pay a certain amount to its employees, this cost is reflected in direct consumer costs. Now suppose a company pays somewhat over the minimum before a transfer system takes effect. Once the transfer system begins, the company could save itself money through lowering pay to the legal limit, thus allowing either more direct profits or the opportunity to lower its product cost to consumers thus giving it a competitive edge. There is no reason to suppose that the company's competitors would stand still while all this happens. They too would have incentive to lower wages to allow them to remain competitive. If there were no mechanism to prevent this chain of events, the result would be a shift of burden from the company to the state. Thus the company would retain its profits while the state would pick up more of the costs of production.

Is there any way to prevent this shifting of burden without raising the minimum wage so high that we lose jobs? I don't see how as long as the people who profit from

⁸¹One might argue that we already do this to some extent through various in-kind income supports.

lowering wages are different from the people whose wages are lowered.⁸² For once the state takes on the role of filling the gap, it would not even matter how high or low the minimum was set. Unless the minimum and the maximum coincided, there would always be businesses paying above the line which could lower the wage once the state agreed to step in. The only way around the problem would be a huge bureaucratic intervention in the form of monitoring company books to ensure that they were paying what they are able to. But if the cost shift allowed the company to lower the price of its product, pay may still be in accordance with market prices and the books would show that indeed the employees are being paid what the company can afford anyway. There is therefore no advantage to turning to bureaucratic intervention to start with. On the other hand, fixing wages at pre-intervention rates would be unsatisfactory, as well. For it sometimes happens that a company really must lower its wages in order to compete due to changes in the market such as a competitor's introduction of more cost efficient techniques. If a company lacked the freedom to adjust its wages accordingly, odds are that it would have a tough time making enough profit to stay afloat.

Now it might be argued that reducing wages in the fashion I have indicated would not be as widespread as I suggest. If, for example, we can see how wage reduction would lead to morale problems, less production, etc., we could see how incentives would exist for keeping wages relatively high. But in so far as the difference would be made up by the state, there would be no effective loss of income to the employee. So unless the fact of getting state money itself were demoralizing, as it is for many people on assistance today, there is little reason to suppose that morale would be unduly affected.

The second objection concerns the government adding support to businesses that otherwise might not make enough profit to sustain themselves. This state of affairs would

⁸²In the discussion of property owning democracy below, I propose that the problem of differential profit making within a company suggests an obvious strategy for determining a minimum wage, namely, that the people who control the wages should be the ones who would stand to lose through lowering them.



raise interesting questions regarding whether such a business really ought to exist if it can't sustain itself on its own profits. This kind of result brings us full circle in detailing the relationship between the state, employer and employee. For the failure to mandate a social minimum in effect provides companies with the same incentives (or lack thereof) to produce "socially valued" goods as would guaranteed government subsidies. I will use the concept of "social value" to refer to the amount consumers are willing to pay for a product of service given a price that reflects "true social costs." I will use the term "true social costs" to refer to the total costs of a product given costs of production including all major external costs. Thus I will say that a product is socially valued if and only if consumers demonstrate a willingness to pay a price reflecting true social costs of production.

The intuitive argument here is that we all recognize that numerous products could be produced profitably by excluding all external costs, but that no one would say that we must keep marginal businesses afloat regardless of their external costs. Of course, this debate over external costs currently takes place, albeit in a different form. For example, we often hear the argument that raising the minimum wage would create more external costs to society by destroying jobs than could be recouped through benefits to the employee. Now while I concede that sustaining a job market is an important consideration, my objection is that there are clearly ethical limits to this line of reasoning. Consider the fact that by far the most important contribution of a business to a community is revenue: revenue in the form of taxes and revenue in the form of employees income spent in the community thus supporting other local businesses. Obviously, if the only factor we took into account when deciding whether a business makes a positive contribution to a community was whether it provided jobs and tax revenues, virtually any business would rank positively, regardless of what it paid its employees. My point is that those are not the only relevant factors. For any enterprise there are 'externalities' which

need to be taken into account.⁸³ While I acknowledge a whole array of negative externalities as relevant and important, my primary concern with the influence of wage differentials on worth of liberty precludes a thorough discussion of them here.⁸⁴ For now I merely conclude that so long as a company does not have to deal with the real social costs of producing a given product, they will not have the incentive to make products that are worth producing and hence may produce goods of questionable social value.

Perhaps the strongest objection to the income transfer solution is that it may not create a fairer worth of political liberty. The reason is that additional income in itself does not address power differentials within the company. Thus the potential for income transfers to assist in satisfying the liberty principle depends on other contextual features that augment or diminish individual capability to exercise political liberty. I am inclined to think that reliance on the transfer system is inadequate because of its exclusive focus on income as a source of power inequalities. Probably the largest single contributor to this inequity is not due to wage differentials per se but rather to different holdings of the means of production. These inequalities will always imply unequal consequences for challenging the terms of that relationship. The simple fact is that as long as there are unequal consequences for exiting a relationship, the dominant agent will always have influence over the choices available to the subordinate agent. I maintain that it is this inequality that leads to the unfair value of political liberty.

The second scenario involves the combination of a minimum wage for the least advantaged with a progressive tax for the most advantaged. One advantage to this plan is that it preserves the efficiency of free market distribution with mechanisms (1) to ensure

⁸³"An externality is a 'neighborhood' or 'third-party' effect of a market exchange: an effect on someone's well-being which is not taken into account in the market exchange. Those neighborhood effects which are beneficial are called external economies or positive externalities; those which are detrimental are called external diseconomies or negative externalities" Buchanan, Allen. "Efficiency Arguments For and Against the Market", excerpted from *Justice and Economic Distribution* (Arthur and Shaw, eds.)

⁸⁴Below I will suggest a strategy for determining a minimum wage that precludes differential worth of liberty as a negative externality.

that wages reflected the 'true' social costs of production and (2) prevent the negative effects of too wide a range of income distributions on the value of political liberty. When combined with transfer programs aimed only at those disadvantaged by circumstances beyond their control, for example, people with certain handicaps, this route seems promising.⁸⁵ On the negative side, there do seem to be reasonable constraints on how high a minimum wage could go. If Daniels is correct about the need to guarantee equal worth of political liberty, it would seem that the social minimum would have to be quite high indeed. If the responsibility for providing such a minimum fell exclusively onto the employer in the form of a minimum wage, many businesses would simply fail to survive. Consequently, it seems unlikely that a minimum wage could ever be adequate to the task at hand. Our options would therefore seem to be a commitment to income transfers or an economic system which does not generate these kinds of inequalities. Since we have already noted several problems with the income transfer approach, I now turn to the third scenario.

D. Fair Value of Equal Political Liberty and Property Owning Democracy.

Insofar as the internal structures of individual businesses lead to conditions of unequal liberty outside of the company, we should expect that a restructuring of companies themselves would be required. As I have mentioned at several points now, part of the problem in unequal worth of political liberty stems from the mobility of capital and its autonomy with respect to employees. This implies that the fair value of political liberty is predicated on 'tying' capital down. This could mean two things: either government control of capital's movement or dispersing control of capital in such a way that it is inherently tied to a geographical area and/or to the workers. I do not find the first option

⁸⁵I suppose that we would also want to allow for a cautious commitment to removing the burdens of family obligations, as well. The reason for my restraint is that the right to a large family would fall under the liberty of conscience. As such, it is the individual's responsibility under the conditions of reasonable opportunity to accept the consequences of their actions. Failure to stick to this principle would amount to subsidizing individual conceptions of the good, something which is neither universally achievable or even desirable.

particularly attractive because it seems likely to be unduly clumsy and liable to mismanagement. Thus its reliance on top down government regulation seems highly unlikely to meet the publicity requirements necessary to ensure public confidence and support. However, I believe that an examination of the second alternative will show that it provides a promising possibility. The essential concept I will use to examine this alternative is "property-owning democracy."⁸⁶

Daniels's argument showed that inequalities in distributions of primary goods compatible with the difference principle could lead to inequalities in the worth of political liberty. Cohen and Rogers's argument showed that, more specifically, inequality in political liberty is attributable to unequal power relationships built into the basic structure of society.⁸⁷ We can understand these unequal power relationships in terms of the dependency relationship sustained by unequal holdings in the means of production. In "Capitalism, 'Property-Ownning Democracy,' and the Welfare State," McPherson and Krouse articulate a general economic scheme compatible with the priority of liberty and a commitment to fair equality of opportunity. Their claim is that the most plausible foundation for justice as fairness is a just system of property institutions. In contrast to welfare-state capitalism, which allows severe inequalities and then "seeks to reduce the consequent disparities in market outcomes through redistributive tax and transfer programs," property-owning democracy "aims at sharply reduced inequality in the underlying distribution of property and wealth, and greater equality of opportunity to

⁸⁶This is a term mentioned by Rawls in *A Theory of Justice*, p. 280, and elaborated on by Richard Krouse and Michael McPherson in "Capitalism, 'Property-Ownning Democracy,' and the Welfare State," In *Democracy and the Welfare State*, ed. Amy Gutman, Princeton, N. J.: Princeton University Press, 1988, p.

⁸⁷The analysis in *On Democracy* leads Cohen and Rogers to suggest seven main institutional requirements of the democratic order—"civil rights and civil liberties, public subsidy for organized competitive political groups, egalitarian distributional measures, public control of investment, workplace democracy, equal opportunity, and a foreign policy informed by the principles of democratic legitimacy that underlie the domestic system," p. 167.

invest in human capital, so that operation of the market generates smaller inequalities to begin with."⁸⁸

The claim here is that a just system of property rights will lead to (A) the compression of wage differentials between lowest and highest paid employees, and (B) an increased ability of all employees to share in company decisions, i.e., that they have decision making power concerning company policy, investments, manufacturing decisions, wage and safety policy. (A) could come about in one of three ways: (1) if by some miracle market forces became such that supply and demand of employees at different levels resulted in a compression of wage differentials; (2) if wage caps were set on the highest paid employees while the minimum floor is raised; or (3) conditions are set up such that wage decisions would be made by all employees as free and equal, e.g., if they all owned equal shares in the company.

There are three problems with suggestion (1). First, it seems unlikely to make a dent in the problem even under the best of circumstances. Second, it would be a highly unstable foundation to base worth of liberty on. And third, it would leave no room for recourse if and when it fails. (2) would could take two forms, both requiring some level of state intervention. Although it is conceivable that some such program could have an effect on worth of liberty of conscience, the fact that it leaves the essential power structure and its inherent inequities intact makes it a less than ideal choice for addressing inequities in political liberty. The third option seems like a more reasonable solution from the perspective of justice as fairness.

The first question we might reasonably ask here is how we are to envision such a system as coming into being. After all, it might seem like the only way such a transformation might happen is through the expropriating of someone else's property. If this were true, we might reasonably expect stability problems. My answer is twofold.

⁸⁸Ibid., p. 84.

First, if Rawls is correct in identifying the two principles of justice as supported by overlapping consensus, then there is evidence of a fundamental social commitment to the fair value of political liberty. Supposing his account is plausible, as I believe it is, a social order which recognizes this commitment must recognize the need to take steps towards actualizing it. Now it is certainly true that one may agree with such a commitment and still deny that my conclusions for actualizing it are correct. I answer only that I believe I have shown the incompatibility of several alternatives with this commitment and challenge the critic (1) to show how my own proposal is equally or less compatible with justice as fairness than the aforementioned alternatives and (2) to propose a more convincing alternative.

Secondly, I answer that the objection supposes that whatever changes came about would come about quickly. However, I believe it is possible to imagine how such a transformation might come about over an extended period. We might imagine how employees could, through a gradual process, come to be stakeholders with equitable holdings of property and power within the company. For example, employees who were paid partially in company stock could gradually become equal stakeholders in a company through an incremental and relatively peaceful process.

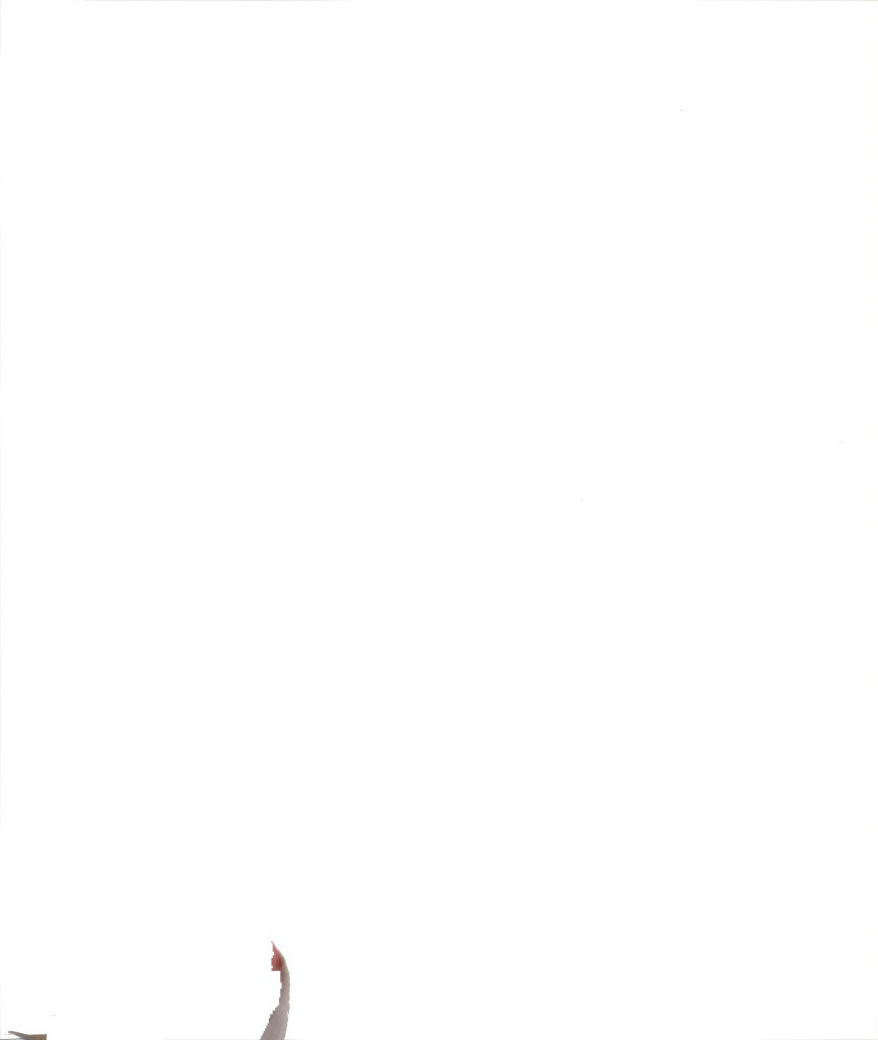
This point brings us to a second objection. For it might turn out that not everyone could afford to take part of their pay in stock. Others might wish to trade their stock in for more liquid assets. We can also imagine how a person could come to amass majority share in the company through her trading just as it can be done under today's circumstances. If this is the case, we might suppose that there would have to be rules regarding whether or not one could have the option to do so. If so, we will need laws to prevent that tendency.

In regards to rules and laws, I merely point out that the function of background conditions is precisely to address these kinds of problems. While I would scarcely venture to say exactly what form background laws would have to take, I offer the following

illustration as general suggestion of what we might expect. Given the goals of protecting equal worth of political liberty through ensuring and preserving equitable distributions of income, I suppose we would want two conditions to be met: that all employees would have to have a certain part ownership in a company, and that no one would be allowed a share large enough to undermine the equity in power. The first condition would ensure that all members would have to hang onto their interest in the business as long as they continued to work there, while the second condition would undermine any advantage that might come from trying to amass more stock than one needed to maintain employment. I submit that these laws are not particularly novel, since they currently form the basis for anti-trust laws.

The objection that some people might not be able to afford taking part of their pay in stock brings provides the basis for cashing in the promissory note for a Rawlsian minimum wage principle. In short, I suppose that the minimum wage within any given company would have to be such that each employee could reasonably be expected to afford to live and still have enough left over to take a portion as company stock. Further, we might suppose the invention of some sort of formula to determine a just rate of accumulation.

A third objection is that if we make part ownership a prerequisite to employment, how would a person just entering the job market come to be employed? Here I would only suggest that we might suppose a transfer program which gives high school and college graduates a stake to invest. We might also suppose that the acceptance of someone into a company would be predicated on an agreement that they must take so much of their pay in stock and that they must have such and such a holding by such and such time. We might then suppose that they could trade their holdings in should they choose to take a different job. To facilitate the exchange of stock from one company to another, there might be an agency that serves as an employment clearinghouse. We might further suppose that there would be several such agencies that could serve as both



clearinghouses and sources of primary data on job distributions within a certain domain of occupations.

A fourth objection is that being a part owner in a company has risks along with benefits. Along with the ability to influence decisions regarding one's own fate is the liability that comes with tying one's fate to the success of the company. If the company fails, you fail with it. In response, I concede the truth in the objection. But this 'danger' is really no worse and in all probability would be better than that which most employees work under now. When a company fails now, the employees are still going to lose their jobs; so, there is really only the potential for gain. Second, the fact that one is more invested in both the losses and now, really for the first time, the gains, gives more incentive to make sure that the company succeeds. Third, it seems at least plausible to expand the above conception of a minimum wage to include income for something like what we now think of as unemployment insurance.

Now suppose everyone agreed that the just thing to do is to restructure individual businesses in a way that ensures that differences in wealth and power within each company would not give any employees within those companies unfair political advantages outside of the company. It would still be possible that we didn't go far enough. For suppose two companies A and B each restructured themselves as we have described. That means that members of company A are all on a par with each other and that members of company B are all on a par with each other. Now suppose company A makes a product which nets its employees much more than company B's product does for them. Let's say, for example, that company A has 50 employees and nets \$5 million in profits while company B has 50 employees and nets \$1 million in profits. Suppose that each employee shares equally in the profits. That means that each employee of A gets \$100,000 while each employee of B gets \$20,000. I am supposing that this figure would be tacked on to whatever wage they

could have expected to get under 'normal' circumstances.⁸⁹ Let's say each had a base salary of \$20,000. That still leaves representative employee A with 120K and representative employee B with 40K. The question we would have to ask is whether that difference is so great that it can translate into an inequitable worth of political liberty. If so, then as long as market forces create differences in income sufficient to generate unequal worth of liberty, steps to restructure from within individual companies alone will not be sufficient.⁹⁰

Here, again, a commitment to ensuring fair value of political liberty requires us to determine which steps and strategies would be most satisfactory to make the background institutions meet the goal of fairness. Again, we could go in either of two directions. We could (1) effect a transfer of funds from one to the other to compress the differential or (2) we could seek to ensure conditions under which it would turn out that everyone would end up negotiating distributions of wealth between themselves to reduce the inequality. The effects of the first step would be more or less the same as simply providing an income supplement to attain a social minimum. That is to say, the distribution of wealth might be more equitable but the power differential would probably remain unchanged. And since it is the power differential that is more likely to translate into political inequality, that solution would be unsatisfactory.

This leaves us with the second proposal and the question of what background conditions would be most likely to result in a close approximation to the desired result. Again, the goal is a distribution of wealth and power that does not undermine equitable

⁸⁹Figuring wages in this manner is common in many law firms.

⁹⁰A further question concerns non-wage workers. For a large portion of people who work, do not get paid directly. They are often dependent on their spouse's income and their spouse's willingness to share it equally with them. I think that this is a real sticking point for the traditional set up, because no matter how much income is transferred to the family, the need for such transfer makes the non-wage worker dependent on the actions and attitudes of wage worker in a way that makes the former particularly vulnerable. In important ways, this dependency is similar to the dependency of the spouse on the wage earner. And, carrying this line of thought all the way through, it is also similar to the dependency which many wage workers have on employers. Whether or not we find that situation acceptable, I submit that if it is unacceptable in one of these spheres, it should probably be unacceptable in the others.



political efficacy. Here, we might try to apply the same strategy as we took to resolve the problem within individual companies. That would mean making everyone substantial shareholders in every company and hence deserving of equal remuneration. There are important differences, however. In the case of the individual companies, it turned out that the transfer of company stock would take place through payment of actual work done. In essence, the employees are paid in pieces of the company. The question is how that strategy would work when the people who are 'buying' into the company do not actually work for it? Clearly, this strategy would have to involve some sort of transfer mechanism.

There is a second variation of the unequal power between companies argument. The first argument drew attention to differences in income between the employees of two different companies. In the second argument, I suppose that company A's product is much more vital to society than company B's. Suppose A produces most of the energy we use to produce heat, light, etc. B produces salad shooters. We might imagine that the problem here is not only that the A's product is more vital and thus provides the A team with more bargaining power, but that the A's jobs require specialized skills such that the social cost of replacing them would present an unattractive option. These differences could give the As an unequal political advantage even if the A employees received the same pay as the Bs.

In accordance with the goal of establishing conditions where it becomes more rational than not to choose compromises that work to the advantage of everyone, I propose two general solutions to this kind of problem. The first is to make such wild-cat actions illegal and provide legal channels for promoting arbitration. I am assuming some such steps would inevitably have to be taken. But suppose one company resists efforts to negotiate with other companies. Let us assume that there is no differential in wealth. Let us further assume that we have determined and implemented laws optimizing fair conditions of cooperation. What this means is that the need for compromise arises, i.e., it seems like they must work out the problem for themselves. We must then ask what



conditions would be necessary to facilitate negotiation to mutually satisfactory solutions. I maintain that above all else the ability to empathize with the views of the other will be necessary. The reason is because natural variations in personality type, intelligence, interpersonal ability to argue for one's position and negotiate will always confer some political advantage to some over others. Thus, as long as these differences exist, there is the potential for one person or group of persons to take advantage of another. The question is then what could prevent people from so taking advantage of others. The answers, I am supposing, are (1) the ability to recognize that one has the ability to take advantage of another, (2) the ability to see when one is doing so, (3) the ability to stop oneself from doing so, and (4) the ability to see when that is the appropriate thing to do it. Insofar as (4) requires the ability to see when it is wrong to exercise power over another, the ability to empathize with the other person's views may be necessary to equalize the power differential.⁹¹

⁹¹ An adequate treatment of these issues would require an extensive analysis of how 'the family' affects moral development. For now I only point out that, if the above analysis is correct, optimal background conditions are merely a precondition for fair equality of political liberty. In so far as people learn to do be moral by observing how the world around them works, there is an argument to be made for looking at how different institutions in our society help people to learn these skills and values. Naturally, the home is the first place where people learn such skills as empathy and also their first exposure to such social phenomena as the sharing or hoarding of responsibility and power. This is one of the first places to look at how institutional features of society translate into inequities in worth of liberty.

The argument I would make here is as follows: (1) Fair worth of liberty depends on the ability and willingness of those who can manipulate others to their own advantage to refrain from doing so. (2) Refraining from exploiting other people requires learning how to empathize with others. (3) People first learn to empathize with others at home through both interacting with others and observing the interactions of others. (4) One of the things kids learn from is how power and responsibilities is shared between parents. (5) Inequities in power and responsibility sharing between parents is reinforced by the structure of job markets. This reinforcement happens in several ways. (a) The job market makes demands on employees which often require one spouse to stay at home at take care of the family. (b) These demands allow one spouse to develop and enhance his skills and marketability while preventing the other from doing the same. (c) This state of affairs results in one spouse becoming increasingly dependent on the other. (d) This state of affairs sends a message to children about personal roles and expectations for their own lives. (6) Teaching children how to share power and emphasize with others requires a restructuring of the family responsibilities and hence of the job market.



Summary and Conclusion.

In the course of this paper, I showed how satisfaction of the liberty principle depends on both the difference principle and the opportunity principle. I argued that fair value of political liberty rests on a just distribution of primary goods and a social and economic context that takes adequate account of individual capabilities to effectively use those goods. I showed how fair value of political liberty requires a capability based approach to preparing people to compete for jobs and political offices. I also showed how we need an understanding of how the socioeconomic environment influences political decisions so that we can establish conditions where the possibility of fair value of political participation could obtain. In particular, I attempted to show how the basic structure creates inequalities in economic power and, consequently, in political power.

In section four, I provided an analysis of the workplace that illustrated several common features that limit opportunity by limiting access to women. I also showed how unequal power in the workplace translates into unequal power in the political sphere. I showed how the division of labor in the traditional family leads to systematic inequalities in power between the wage and non-wage worker, both by making the latter dependent on the former for payment and by allowing the wage-worker to develop his skills, marketability and hence wage earning potential at the expense of the non-wage worker. I suggested several options for reducing the dependency relationship between wage and non-wage working family members. For example, to the extent that the structure of most jobs enforces this inequality, I proposed that justice as fairness may require a reconsideration of that structure, including the forty-hour work week and any other aspects of the job market that can exist only through a systematically biased power structure.

Finally, I showed how economic and social conditions systematically undermine the value of political liberty for wage workers by allowing those who control the means of production to narrow the rational choices available to workers and those dependent on

them. I provided an analysis of several strategies for addressing this structural problem and showed that an exclusive reliance on transfer mechanisms for redistributing income causes problems for markets and leaves the fundamental source of unequal worth of political liberty intact. For this reason, I argue that transfer mechanisms should be secondary to establishing background conditions to ensure property rights in the means of production and prevent unreasonable accumulations of the same.

While I see these steps as necessary for ensuring the fair value of political liberty, I emphasize that they are only preconditions for the possibility of achieving fair value of political liberty. Because there will always be the possibility for exploitation, the value of political liberty for some will always rest on whether or not people with the ability to exploit them refrain from doing so. For this reason, we must emphasize the role of individual moral capacities in the just society. To the extent that we get our moral education in the family, we must pay adequate attention to the family as an essential part of the basic structure. It is there that we acquire our first knowledge of the uses and limitations of power.⁹²

⁹²As I have indicated, this is a complex problem that requires further reflection. See note 90 supra.

BIBLIOGRAPHY

BIBLIOGRAPHY

- Buchanan, Allen. "Efficiency Arguments For and Against the Market." excerpted from *Justice and Economic Distribution*. eds. Arthur and Shaw, Englewood Cliffs, N. J., Prentice-Hall, 1991), pp. 182-197.
- Cohen, Joshua and Joel Rogers. "Secondary Associations and Democratic Governance," *Politics and Society* Vol. 20 No. 4, supplement (Dec. 1992): pp. 391-471.
- . *On Democracy*. Middlesex: Penguin Books, 1983.
- Daniels, Norman. "Equal Liberty and Unequal Worth of Liberty." Reprinted in *Reading Rawls: Critical Studies on Rawls's A Theory of Justice.*, ed. Norman Daniels, New York: Basic Books, 1975.
- Krouse, Richard and Michael McPherson. "Capitalism, 'Property-Owning Democracy,' and the Welfare State." In *Democracy and the Welfare State.*, ed. Amy Gutmann. Princeton, N. J.: Princeton University Press, 1988.
- Okin, Susan Moller. *Justice, Gender, and the Family*. Basic Books, 1989.
- Peffer, Rodney. *Marxism, Morality, and Social Justice*. Princeton: Princeton University Press, 1989.
- Rawls, John. *A Theory of Justice*. Cambridge, Mass: Harvard University Press, 1971.
- . *Political Liberalism*. Columbia University Press, 1993.
- Ritzer, George and David Walzac. *Working, Conflict and Change*. Englewood Cliffs, N.J.: Prentice Hall, 1977.
- Sen, Amartya. "Capability and Well-Being." In *The Quality of Life.*, ed. Martha Nussbaum and Amartya Sen. New York: Oxford University Press, 1993.
- . *Inequality Reexamined*. New York: Russel Sage Foundation; Cambridge, Mass.: Harvard University Press, 1992.

Wartenberg, Thomas E. *The Forms of Power: From Domination to Transformation.*
Philadelphia, Temple University Press, 1990.

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