

# Chapter 31

## Equality

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### Introduction

The ideal of equality has led a double existence in modern society. In one guise the ideal has been at least very popular if not uncontroversial and in its other guise the ideal has been attractive to some and repulsive to others. These two aspects of equality are *equality of democratic citizenship* and *equality of condition*.

Equality of democratic citizenship has risen in stature because so many of the twentieth-century regimes that have flouted this ideal have been truly despicable. The ideal demands that each member of society equally should be assured basic rights of freedom of expression, freedom of religion, the right to vote and stand for office in free elections that determine who controls the government, the right not to suffer imprisonment or deprivation at the hands of the state without due process of law, the right to equal protection of the law construed as forbidding laws that assign benefits and burdens in ways that discriminate arbitrarily on the basis of such factors as race, creed, gender, sexual orientation and ethnicity, and perhaps the right to an education adequate to enable one to fulfil the duties of democratic citizenship. Different theorists conceive the status of equal democratic citizenship somewhat differently; there is no firm consensus as to exactly what rights are essential to democratic citizenship or what should be the reach of these rights (see Chapter 25).

### Equality of Condition

#### *The notion*

Beyond equality of democratic citizenship, the political ideal of egalitarianism encompasses something further. Every nation of the world is divided into haves and have-nots. In industrially advanced market economies, some persons live spectacularly well, some moderately well, some stagnate in poverty. The gap between the life prospects of the best-off and the worst-off individuals, in terms of wealth, income, education, access to medical care, employment and leisure-time options, and any other index of well-being one might care to name, is enormous. If one makes comparisons across rich and poor

nations, the gap between best off and worst off is vastly increased. Confronting these disparities, the egalitarian holds that it would be a morally better state of affairs if everyone enjoyed the same level of social and economic benefits. Call this ideal *equality of condition* or *equality of life prospects*.

Equality of condition as I have just characterized it is an amorphous ideal. It cries out for clarification. Exactly what sort of equality of condition is desirable and for what reasons? But before trying to answer that question I want to indicate that egalitarianism in its social and economic dimension has struck many observers as an uninspiring ideal or even as menacingly unattractive or horribly misguided. For the critics, egalitarianism is a dead end, so the exercise of clarifying the notion of equality of condition has been haunted by the worry that the task of clarification will turn out to have been an exercise in futility.

### *Preliminary doubts*

'Equality literally understood is an ideal ripe for betrayal', writes Michael Walzer (1983, p. xi). Equality literally understood requires that everyone should get the same or be treated the same in some specified respect. For example, the regime of *simple equality* according to Walzer is a regime in which everyone has the same amount of money, the same income and wealth, and there are no restrictions on what can be bought and sold. Walzer's objection against simple equality is reminiscent of the distributive justice views of Robert Nozick (1974, pp. 160–4). Since individuals left unrestricted would freely exchange goods and make deals in ways that would swiftly overturn an initially established condition of simple equality, this norm could be upheld over time (if at all) only by continuous exercise of harsh coercion over individuals by the state. But any state capable of carrying out such coercion would become an irresistible target for takeover by a small elite, and the vast inequality in political power among citizens in a society governed by a controlling elite would overshadow the alleged evils of inequality of wealth and income.

This way of putting the point suggests that there might be several forms of literal equality worth seeking, equality of political power among them, and that simple equality of money should not be pursued with single-minded intensity at the expense of other values including the diverse valuable forms of literal equality. The lesson that Walzer wishes to draw from his discussion is quite different, however. According to him the analysis shows the futility of the pursuit of simple equality and by extension the futility of the pursuit of any other sort of literal equality. It is hopeless to try to achieve and sustain any significant literal equality, and the attempt to do so would inevitably steamroller individual liberty and wreak havoc generally. Therefore, we should not seek literal equality, thinks Walzer.

This argument for scrapping the ideal of literal equality proceeds too swiftly. From the stipulated fact that equality conflicts with individual liberty it does not follow that any trade-off that purchases some progress toward equality at the cost of some loss of individual liberty must be morally unacceptable. And from the stipulated fact that no significant norm of literal equality can be fully achieved and sustained it does not follow that the pursuit of no form of literal equality is worthwhile. For all that has been said so far, movement from a state of great inequality to a state of lesser inequality might

be feasible and, from a moral standpoint, highly desirable (Arneson, 1990a). (To clarify this claim, it would be necessary to assert a defensible rule that determines, for any two unequal patterns of distribution, which of the two is the more unequal. For analysis of various measures of inequality, see Sen, 1973.)

A further clue as to what considerations underlie Walzer's position is his suggestion that egalitarians would be well advised to renounce literal equality and seek to promote a non-literal equality ideal which he calls 'complex equality'. The ideal of equality must be complex because there is no one overarching distributional mechanism. Society is divided into distributive spheres, and within each sphere there will arise norms regulating the proper distribution of the good or goods that are unique to that sphere. Such autonomous distribution of each good by the norms of its sphere is threatened by the domination of distribution in one sphere by the outcome of distribution in another sphere; for example, when wealth procures political power or when political power subverts meritocratic job assignment. Walzer stipulates that complex equality obtains in a society when no such domination exists and distribution in all spheres proceeds autonomously according to the norms internal to each sphere.

It is hard to see in what sense complex equality is supposed to be *equality* (Arneson, 1990a; countered by Miller, unpublished). But the ideas – that many different sorts of goods are distributed in a modern society and that the proper way to distribute a good depends on the sort of good that it is – suggest reason to resist the idea that it is morally important to achieve equal distribution of some one good or equal distribution of some measure of all goods among all members of society. The idea that each distributive sphere has its own integrity which should be respected is reason to doubt that society should try to tinker with all distributions in order to achieve some overall measure of equality. There is no reason to expect that some invisible hand would bring it about that the distribution of goods within every sphere according to its own norms would yield an overall pattern of equal distribution, and adjustment by a visible hand would destroy the desired autonomy of the spheres. Or one might think that the various distributional outcomes will not be commensurable on a single scale. But if there is no overall measure of distributional outcomes then the ideal of overall equal distribution is a chimera.

To advance the discussion at this point we need to investigate how *equality of condition* might be defined so as to meet these objections lurking somewhat buried in Walzer's discussion of complex equality.

## **The Resourcist View of Equality of Condition**

### *Equality of what?*

We might start with the thought that people have equal chances to achieve whatever they might seek in life when each person commands equal resources. For the sake of simplicity, imagine that resources can be grouped into three categories: (1) leisure or free time; (2) income (a flow) and wealth (a stock), understood as the opportunity to purchase any of a given array of goods at going prices, up to the limit of one's monetary holdings; and (3) freedom to use whatever goods one possesses in desired ways, within

broad limits. One initial difficulty with this resourcist conception of equality of condition is that it does not seem to realize the ideal of equal life chances for all citizens. Consider a simple example (Arneson, 1989). Suppose that Smith and Jones have similar tastes and talents, but Smith is born legless and Jones has two good legs. Endowed with equal resources (money, leisure time and freedoms), Smith must spend virtually all his money on crutches whereas Jones is able to use his money to advance his aims in a rich variety of ways. In this example it does not seem as though equality of resources guarantees that Smith and Jones enjoy equality of material condition or equality of life chances in any sense that matters.

The objection against a resourcist measure of equality is that it makes more sense to consider what people are enabled to do and be with their resource shares and measure these opportunities than to fixate on resource shares. Resources are means, and (the objection goes) it is fetishistic to focus on means rather than on what individuals gain with these means (Sen, 1980). People are different, and among the differences among people are differences in individuals' capacities to transform given stocks of resources into satisfaction of their goals. Since resources matter to us insofar as they enable us to achieve goals that matter to us, a proper measure of equal life chances should register variations in people's opportunities to fulfil their goals. This fetishism objection against a resourcist measure of equality suggests two alternative standards: we could measure either (1) to what extent individuals are able to fulfil the goals that they themselves value, or (2) to what extent individuals are able to fulfil goals that are deemed to be objectively valuable or worthwhile. In broad terms, the two options are equality of utility or welfare and equality of valued functionings (Sen, 1985, pp. 185–203).

The advocate of a resourcist conception of equality can try to defend her position with two lines of argument. Responding defensively, the resourcist can suggest that the Smith and Jones example only shows that the domain of resources that should be captured by an equality measure should include internal resources of the person as well as external resources. Healthy legs are a valuable personal resource; so, other things equal, Smith who lacks legs is lacking in resources as compared with Jones who is equipped with a healthy pair of legs. This thought gives rise to the extended resourcist ideal of equality of external resources plus talents broadly construed.

At first glance it is not obvious what might be meant by an ideal of equality of individual talents. External resources such as money can be transferred from one individual to another, so the idea of shifting external resources so as to render people's holdings equal is readily comprehensible. But if talents are non-transferable and we eschew the option of achieving equality by destroying the superior talent of the better endowed, how could we conceive of achieving equality of individual talent endowments? We could implement compensatory education offsetting differences of native endowment, but aside from the evident great inefficiencies that would result from any serious effort in this direction, for many talent differences no amount of training could compensate: no feasible educational regimen would enable me to play piano, run high hurdles or solve mathematical problems as well as people who are natively gifted at these endeavours.

One ingenious resourcist ploy, introduced by economists and developed for philosophers by Ronald Dworkin, is to interpret equality of internal and external resources as

satisfied when persons assigned identical bidding resources bid to an equilibrium in which all external and internal resources are put to auction (Varian, 1974; Dworkin, 1981). When one person bids to purchase a person's internal resources – her own or another's – in this auction, ownership is interpreted as ownership of hours of time of the person who has the resource, and ownership of time in turn is interpreted as ownership of labour power – the right to demand from the possessor of the resource the highest amount of money that the person could have earned in the labour market working for the length of time that is owned. On this conception any talent an individual possesses that enhances the value of an hour of her labour power is an internal resource that is up for grabs in the imagined auction. In given circumstances the outcome of such an auction would depend on the ensemble of the tastes and talents of the persons assigned equal bidding resources who participate in the auction procedure. In effect equality of resources so conceived gives each individual an equal share of social scarcity. The value of each resource as measured by the auction is (marginally above) the value placed on that resource by the person or persons in society who make the highest bid for it except for the winning bid.

The weakness in this conception of equality of resources as interpreted by the equal auction is that it leads to the 'slavery of the talented'. To see the difficulty, imagine that Smith has a great talent for singing, which commands a very high price in a given society. Other people will then be willing to bid a lot for hours of Smith's labour time in the equal auction. For each hour of her labour time purchased by others in the auction, Smith will have to work at her most lucrative employment for that hour in order to satisfy the legitimate demand for remuneration by the 'owner' of that hour. Smith's free time is a scarce social resource, so in order to obtain genuine free time for herself Smith must bid for hours of her time, on which the auction sets a high price. In contrast, the untalented Jones, whose labour time is not in high demand, can cheaply purchase hours of her free time for her own use. Smith is as it were enslaved by her talent in the equal auction (Roemer, 1985; 1986).

There are various *ad hoc* devices for avoiding this 'slavery of the talented' result. But none can carry conviction, because slavery of the talented is the straightforward result of applying the auction view of resources to personal talents in order to interpret the norm of equality of external and internal resources. It is not a quirk of formulation.

Against the fetishism objection stated at the beginning of this section, the resourcist has both a defensive and an offensive response. The defensive response is the idea of extending the equal auction to talents, which we have just found to be inadequate. Going on the offensive, the resourcist objects that neither the ideal of equality of welfare nor the ideal of equality of capabilities can satisfactorily interpret the intuitive pre-theoretical norm of equality of life chances. Let us take each objection in turn.

### *Against welfare as the measure*

Imagine that we have a stock of goods to distribute to a given group of persons and that our guiding idea is that the distribution should count as equal if and only if it induces the same welfare or desire-satisfaction level for each person in the group. But suppose that Smith has expensive tastes and wants only champagne and fancy sports cars, whereas Jones has cheap tastes and wants only beer and a sturdy bicycle. Other things

equal, Smith must be assigned far more resources than Jones if the two are to satisfy their desires to the same extent. But according to the resourcist view, equality of welfare is an inadequate conception of equality of life chances, because individuals should be regarded as capable of taking responsibility for their ends, but equality of welfare takes tastes as given, as though they were beyond the power of individuals to control. Taking tastes to be fixed and dividing resources so that persons with different desires, which put varying pressure on socially scarce resources, end up at the same level of desire satisfaction is unfair to those who have cheap tastes (Rawls, 1982).

This objection initially sounds plausible but is rooted in confusion. In order to defend equality of resources it is urged against the norm of equality of welfare that people should be held responsible for their ends, so it is wrong to adjust resource shares so that whatever ends people select, they ultimately obtain equal welfare. What is being appealed to here is the thought that society should not compensate an individual who reaches one rather than another outcome if it lay within the individual's power to determine which outcome she reached. What lies within the voluntary control of an individual should be deemed to be her responsibility, not the responsibility of society.

That something is awry with this line of thought becomes plain when one reflects that what level of resources an individual succeeds in gaining for herself over the course of her life is to some considerable extent a matter that lies within her voluntary control. The idea that society should not take responsibility for compensating individuals for aspects of their situation that are within their power to control does not support equality of resources rather than equality of welfare.

There are two entirely independent issues that must be distinguished in this context. One issue is whether a norm of equality of condition should measure people's positions (to determine if they are equally or unequally situated) in terms of their resources, welfare or functionings. A second issue is whether a norm of equality of condition should be concerned to equalize the outcomes that individuals reach or the opportunities they have to reach various outcomes. The responsibility-for-ends objection in effect holds that it would be unfair to compensate an individual in the name of equality for a deficit in the welfare outcome she reaches if it lay within her voluntary control to have reached higher welfare outcomes. The objection then is urging that as egalitarians we should be concerned to render equal the opportunities that people enjoy rather than the outcomes that people reach by voluntary choice among their opportunities. If this is what the responsibility-for-ends objection is driving at, then it is strictly irrelevant to the issue of whether welfare, resources or functionings would be the best measure for a norm of equality of condition to employ.

This point can be misunderstood. I am not agreeing that individuals should always be deemed fully responsible for their final ends or basic life goals. To some extent these are set for each individual by her genetic endowment and early socialization and education, matters which lie beyond her power to control. Also, even if two persons could voluntarily alter their basic goals from A to B, this task might be extremely difficult or costly for one individual and easy or costless for the second individual. In this case individuals might be deemed responsible to different degrees for their ends (suppose they both adhere to the A goals) even though each of them could have altered her ends by voluntary choice. Third, sometimes even though it is possible for me to alter my ends it would be unreasonable for me to do so. Suppose I now value rock music and I know



there is a therapy regimen I could choose to undergo which would alter my tastes, as I suppose, for the worse, so that my taste for rock music would be supplanted by a love of country & western music. It is at least not clear that a norm of equality of condition should refuse to compensate me for any welfare deficit arising from the fact that I prefer rock over country & western music in these circumstances. The point is not that the responsibility-for-ends objection is fully acceptable but rather that to whatever extent the objection is well taken, it has no bearing on the choice of resources versus welfare as the measure.

### *Against functionings as the measure*

Instead of evaluating people's resource holdings by determining what welfare levels they reach by means of these holdings, we could instead list specific things that their resources enable them to do or be. For example, a given allotment of food to a person can be assessed in terms of the nutritional and vigour levels that the food assists that person to attain. Notice, first, that the same pile of food would be transformed by different individuals into different functionings. Notice, second, that just as we can distinguish the actual level of welfare that a person reaches with her resources and the possible welfare levels that she could have reached had she chosen differently, we can distinguish the functionings an individual actually reaches with a given set of resources and the opportunity set of functionings that the individual could have reached with that set of resources. Amartya Sen speaks in this connection of the *functioning capabilities* provided for a particular person by a given set of resources (Sen, 1990). Here then is another conception of equality: arrange distribution so as to render people's functioning capabilities the same.

At this point the resourcist can object that an indexing problem looms. An egalitarian norm has to incorporate a measure such that one can determine whether or not individuals endowed with mixed lots of resources should be deemed equal or not. But given that there are indefinitely many kinds of things that persons can do or become, how are we supposed to sum a person's various capability scores into an overall total? In the absence of such an index, equality of functioning capabilities cannot qualify as a candidate conception of distributive equality. If your resources give you capabilities A, B and C, and mine give me capabilities C, D and E, our capability sets are non-comparable. Only if your set dominates mine, containing everything in mine plus more, is comparison possible. In the general case, comparison will be possible only if we accept a perfectionist standard which ranks the value of all the functionings that an individual's resources enable her to reach. But the resourcist will further object that no single perfectionist scale of value could possibly be an acceptable basis for interpersonal comparisons for the administration of a distributive equality norm in a modern diverse democracy. For example, capabilities could be assessed according to a Roman Catholic standard that gives priority to prospects of salvation, but a norm of equality of condition rooted in this or any other perfectionist dogma would rightly seem merely arbitrary to many citizens. Equality of functioning capabilities thus collapses as an alternative to equality of resources.

We are now in a better position to appreciate Walzer's doubts about equality of money. We can suppose that equality of money stands as a proxy for the more general

doctrine of equality of resources. Pluralism defeats this ideal – not so much the pluralism of types of goods cited by Walzer but rather the plurality of reasonable evaluative perspectives that citizens might take toward the goods they have. How can we determine definitively that people's holdings of resources are to be judged equal or unequal when individuals will differ in their evaluations of those resource sets? The indexing problem arises for the equality of resources ideal and so far as I can see proves fatal to it (Arneson, 1990b). Given that there are many sorts of resources or goods that individuals may command, in order to decide whether people's holdings are equal or unequal we need to be able to attach an overall value to the holdings of each person. There are just two possibilities. Either resources are indexed by individuals' subjective evaluation of the contribution their resources can make towards their welfare or they are indexed by some scale of value that is deemed to be objectively valid regardless of people's subjective evaluations. This would be a perfectionist norm. In short, equality of resources must collapse either into a welfarist or a perfectionist view, into equality of welfare or equality of valuable functionings.

## **Equality of Condition: Rivals and Alternatives**

### *Equality versus the doctrine of sufficiency*

Harry Frankfurt has advanced strong objections against the doctrine that it is intrinsically desirable that everyone should have the same income and wealth. Some of his objections apply more broadly than just to this specific target. They reach any form of equality of condition.

With respect to the distribution of income and wealth, the argument goes, what should matter intrinsically to an individual is not how well he does compared to others. What matters is not whether one has more or less money or other resources than other persons but rather whether one has enough, given one's aims and aspirations. This rival to egalitarianism can be labelled the *doctrine of sufficiency*. According to Frankfurt, the amount of resources one possesses is sufficient if a reasonable and well-informed person with one's basic aims would be content with that amount and would not actively seek more. Egalitarian doctrines by contrast tend to focus people's attention on questions of comparison – the size of my resource bundle compared to the amount of resources that other individuals command. By encouraging people to think that these comparisons matter intrinsically, even though on a proper analysis they do not matter intrinsically at all, egalitarianism is alienating. It diverts people's energy, their focus of attention and their will to critical reflection away from matters of substance and toward matters that do not really intrinsically matter (Frankfurt, 1987).

Once one clearly distinguishes the question of whether one has enough from the question of whether one has more or less than other persons, the examples that some philosophers offer to illustrate the intrinsic importance of equality will be seen to show nothing of the sort. The resource egalitarian tries to present her favoured principle in an attractive light by considering its application to a situation in which society is divided into income classes that include a very poor and a very rich group. The resource egalitarian then describes the squalid living conditions of the poor. Their infant



mortality rate is high, they lack proper nutrition, clothing and shelter; they are ravaged by diseases that are preventable with the help of medical assistance they cannot afford. The poor are denied access to all but the shabbiest education and degrading, rote, unskilled jobs. They are cruelly afflicted by vulnerability to crime. And so on. In all these respects the rich enjoy vastly more favourable life expectations. The resource egalitarian then invites us to accept the moral principle that other things equal it is morally desirable that people should have equal money (or, more broadly, equal resources).

The proponent of the doctrine of sufficiency protests that the considerations adduced in the presentation of such examples do not support egalitarianism. For the story the egalitarian tells is one according to which the poor manifestly do not have enough to enable them to lead decently satisfactory lives. The poor are also described as worse off than the rich along the dimension of resource share possession. But is the morally salient feature of the example, prompting the judgement that resources ought to be transferred from the rich to the poor, really the relative disadvantage or rather the insufficiency suffered by the poor?

The sufficiency advocate proposes a way to answer this question. Imagine that all of the members of a society enjoy a very high standard of living, so that everyone can reasonably be presumed to have sufficient resources to support a thoroughly satisfactory life, even though the relative gap between the wealth and income of the rich and poor remains just as large as in the first example described by the resource egalitarian. In comparative terms, the poor are just as badly off in the revised example, in which they enjoy a high level of affluence, as they were in the original example. Resource egalitarianism would then seem to be committed to the judgement that the moral imperative of transferring resources from rich to poor is equally compelling in the two examples. Many will find this judgement unappealing. In contrast, the sufficiency advocate has a ready explanation for the judgement that the case for transfer from rich to poor is strong in the first example and non-existent in the second example. In the second example it is plausible to suppose that the poor have enough, and how resources are distributed above the line of sufficiency is simply not important from a moral standpoint.

Frankfurt's argument is explicitly directed against the doctrine that upholds equality of money, and some of his comments reflect the thought that it is fetishistic to attach intrinsic significance to resources rather than the extent to which people are enabled by their resource shares to satisfy reasonable goals. So understood, his argument, if successful, would rebut resource egalitarianism, not welfare egalitarianism. But the sufficiency advocate is better interpreted as opposing all versions of equality of condition, not just resourcist versions of this doctrine. The problem is not (merely) that the resource egalitarian is focusing on the wrong sort of comparisons. According to the doctrine of sufficiency, the flaw in egalitarianism lies deeper. Any distributive doctrine that ascribes intrinsic significance to comparisons of relative shares – and hence any egalitarian doctrine – is wrong-headed and fetishistic.

The argument of the sufficiency theorist against egalitarianism raises complex issues. I shall respond briefly to three major issues that should be held distinct.

*Resource egalitarianism is fetishistic* We care about resources only because either they can do something for us or we can do something with them. Even Silas Marner, who

wants resources for their own sake, likes them because of what one can do with them. And anyway, the Silas Marner syndrome of wanting to have resources but not to use them is uncommon. Since resources virtually by definition are valued as means rather than as ends for their own sake, a theory of distributive justice should at the fundamental level be concerned with what resources enable a person to be or do. This scale could be either subjectivist or perfectionist. The resource holdings of an individual could be measured either by the extent of desire satisfaction they enable her to achieve or by the extent to which they enable her to reach objectively valuable states of affairs. Both the subjectivist and the perfectionist options run into difficulties, but whichever way we go at this juncture, resources drop out of the picture of what fundamentally matters for distributive justice.

*Comparisons are alienating* The claim is that we should not care about equality of condition because no one should care, except instrumentally, how his condition compares to that of others. I defer consideration of this issue until later.

*Sufficiency for all is morally important whereas equality among all is not* According to the doctrine of sufficiency, what is morally important is not that everyone should have the same but that as many as possible should have enough. But how much is 'enough'? The examples cited above appeal to the thought that the project of enabling people to rise above dire poverty is a matter of greater moral urgency than the project of enabling everyone to have the same whatever her level of affluence. But a person who has risen above dire poverty could still do much better. As Frankfurt defines *sufficiency*, a person attains this level only when she is content with what she has and would not actively seek more. If there is any level at which it would be reasonable for a person to be content and not seek more, this sufficiency-marking level will surely be high – far above the barely beyond poverty level. But then one cannot appeal to the great moral urgency of lifting people above dire poverty to demonstrate the moral urgency of bringing it about that everyone has enough, for the sufficiency level and the just above poverty level are unlikely to coincide for any individual. If attaining sufficiency is morally important that cannot be because escaping poverty is morally important.

There may also be a problem about continuity for the doctrine of sufficiency. If the doctrine of sufficiency holds that getting people just to the sufficiency level is important but moving them beyond that level is unimportant, that would seem to attach undue weight to a tiny gain from a point just on one side of a line as compared to a tiny gain to a point just past the line. Assume that the level of sufficiency is calculated in welfare terms and that Smith's sufficiency level is judged to be 100. The doctrine of sufficiency would seem to be committed to saying that moving Smith from 99.99 to 100 is a morally weighty matter whereas moving Smith from 100 to 100.01 is a trivial matter. This view seems arbitrary. However, this result could be avoided by a function that weights the moral value of gains so that in the neighbourhood of the sufficiency line (on either side) gains matter more, with the weight gradually tapering off as one moves away from the sufficiency line. So the continuity objection against the doctrine of sufficiency is not decisive.

According to Frankfurt, an individual has enough at the point at which she is content with what she has, and reasonably would not actively seek more. But perhaps

a reasonable person would always seek ever more. If so, the doctrine of sufficiency as interpreted by Frankfurt sets no upper bound to reasonable seeking. The doctrine of sufficiency is supposed to be counterposed to a maximizing view of rationality (Slote, 1989). Instead of seeking to maximize one's benefits, a rational person (insofar as she seeks her own self-interest) according to the sufficiency doctrine might seek a moderate amount deemed to be satisfactory and be content with that. But in order to get clear on the difference between a maximizing conception of rationality and a sufficiency conception, one should note that the decision not to seek further gains can be part of a maximizing strategy. The gains might be associated with costs such that there is no net gain from further seeking. Or the reach for gain might also carry a risk of losses, such that one maximizes expected utility by forgoing the reach for gain. A satisficing strategy (seek a satisfactory level of gain and do not search further for more) can be a maximizing strategy in circumstances where any further stretch for more carries a loss of expected utility. Moreover, viewing a policy of moderation as a maximizing strategy solves the problem of how one might non-arbitrarily set the 'satisfactory' or 'sufficiency' level: the level is to be set at a level that maximizes expected gain.

Once we observe the need to distinguish a genuine doctrine of sufficiency or moderation from moderation or satisficing as a means to maximization in certain circumstances, we see that the doctrine of sufficiency is committed to the following. For each individual one can determine a level of benefit such that with her aims, the individual should reasonably be content with this level and not seek more. Even if the individual could certainly secure a large net gain for herself by taking action, the individual would be reasonable to forgo such action on the ground that what she has already suffices. For example, I have been looking for a house that is by the beach, large, and visually attractive, and I have determined that finding a house with any two of these desirable features would suffice. I have located such a house and am satisfied with it, but before I conclude a deal for a sale an agent who knows my tastes perfectly informs me that a house with all three desirable features is available at the same price on the same terms. The first house suffices, the second house is better, and the cost of making a deal and the risk that no deal can be reached are the same for the first house and the second. The doctrine of sufficiency is committed to the claim that in some cases that fit this description the individual would be reasonable to take the first house rather than the second because the first house suffices. On a maximizing view, taking less when one could get more is irrational.

As the doctrine of sufficiency is described, it becomes decreasingly clear why attaining the level of sufficiency should always be a matter of special moral urgency. Suppose that there are three groups of individuals, very poor, poor and well off, and that all individuals within each group happen to have goals such that the level of sufficiency is the same for all of them. Suppose that we could either move the very poor group to the poor level, where none will attain the level of sufficiency, or we could move an equal number of well-off individuals to a level of sufficiency for each of them. I don't see that helping the very poor should have lesser priority than helping the well off even though only helping the well off in these circumstances will thin the ranks of those who do not have enough. For example, it is consistent with the terms of the example set so far that more utility is gained overall if the very poor are helped than if the well off are enabled to gain sufficiency. Consider also a second example. We can choose either to move the

very poor group to the poor level or with the same resources we can move the well-off group far past sufficiency to the bliss level, which we may assume to be far past sufficiency on a utility scale. Suppose that in the second example enormously more utility is produced by raising the better off to bliss than by raising the very poor up the ladder a bit. So in this case, I submit, choosing to help the better off might well be morally preferable to helping the very poor, given the disparity in the gains each group would get from the help we could give. In neither example does the 'sufficiency' level, even supposing it can be defined coherently and determined non-arbitrarily, provide any special reasons for choosing to help one set of potential beneficiaries rather than another.

I conclude this section by summarizing the discussion: three aspects of Frankfurt's attack on the ideal of equality of condition have been distinguished. The objection that resource egalitarianism is fetishistic is well taken, but leaves other versions of the equality of condition ideal unscathed. A second objection is that any doctrine of distributive justice that attaches intrinsic importance to comparisons among persons' holdings is alienating. I have set this aside for now. A third objection claims that egalitarianism should be rejected in favour of a superior rival, the doctrine of sufficiency. I have tried to rebut this objection by casting doubt on the adequacy of the doctrine of sufficiency.

### *Equality versus Pareto*

Equality of condition conflicts with the Pareto norm, which many view as a minimally controversial and highly plausible fairness requirement.

Consider the version of equality of condition that holds: everyone should have the same amount of goods (according to the most appropriate measure of 'goods'). Following Joseph Raz (1986, pp. 225–7), we can state the principle in these other words: if anyone is to have some amount of goods, everyone should have the same amount. In a context where lumpy (not continuously divisible) goods are to be distributed, this principle of strict equality dictates wastage or destruction of goods. If there are three exquisite marble statues to be distributed among four persons, the only distribution consistent with equality is that no person gets any statues. As Douglas Rae and his associates (1981, p. 129) comment, reflecting on this implication of equality, 'Equality itself is as well pleased by graveyards as by vineyards.'

Another equally familiar example involves the distribution of goods to persons when the distribution we enforce now will affect people's incentives to behave and thus the distribution that will come about later. In the familiar image, how a pie is distributed now can affect the size of the pie that will be produced later. If society offers superior remuneration for superior performance, those capable of superior performance will be given an incentive to produce it. Remuneration schemes that elicit higher productivity can produce gains for everyone over an extent of time compared to the baseline of equal distribution.

The principle of strict equality holds that the equality it recommends should be upheld (1) even when unequal distribution would render everyone better off, and (2) even when unequal distribution would render someone better off and no one worse off. In the face of these implications, one might temper advocacy of equality by holding that

equality should have lesser priority than the Pareto norm. A state of affairs is Pareto optimal when it is not possible to change it by making someone better off without making anyone worse off. A state of affairs is Pareto suboptimal when it is possible to change it by making someone better off without making anyone worse off. The Pareto norm simply holds that principles of distributive justice must not recommend Pareto suboptimal distributions.

The Pareto norm appears to express a minimal and rather uncontroversial notion of fairness: if one can make someone better off without making anyone else worse off, why not do so? Sometimes the idea of Pareto optimality is construed in terms of utility or desire satisfaction: a state of affairs is Pareto optimal when no one's level of desire satisfaction can be increased without decreasing someone else's level of desire satisfaction. When the idea of Pareto optimality is so construed, it can be challenged by imagining cases in which someone's desires are perverse or degraded, and querying why matters are improved when someone's perverse or degraded desires are better satisfied. But this challenge reflects doubt that someone is always better off whenever their level of desire satisfaction is increased, not a challenge to the idea of Pareto optimality or the Pareto norm *per se*.

The Pareto norm as stated at the end of the last but one paragraph is ambiguous. When the ambiguity is removed, the Pareto norm takes a less controversial and a more controversial form. First, notice that *Pareto optimality* is defined in terms of what is possible in principle. In practice, the achievement of Pareto-optimal or -efficient outcomes may be unfeasible. We can imagine a possible improvement but cannot achieve it. Second, the Pareto norm can be given a weak and a strong formulation. The weak Pareto norm holds that principles of distributive justice should not recommend outcomes from which it is feasible to effect a Pareto improvement. The strong Pareto norm holds that principles of distributive justice should not recommend outcomes from which it is in principle possible to effect a Pareto improvement, whether or not such improvement is feasible. The weak Pareto norm is less controversial, the strong Pareto norm more so.

To illustrate the difference: suppose that raising the incomes of the poor is a goal of equity and that to achieve this goal an income tax is instituted. The income tax will distort taxpayers' leisure versus income decisions and hence inevitably produce inefficiency. If we do all we can to pick the policy that results in the least efficiency that is compatible with achieving the equity goal, the policy is a constrained Pareto optimum and the weak Pareto norm is satisfied. But the strong Pareto norm tells us not to select any outcome off the Pareto frontier. Restricting the policy choice in this way may not allow any movement at all in the direction of satisfying the equity goal, given that any move toward equity inevitably involves some inefficiency. In general, the strong Pareto norm is a very demanding principle that many will reject. The weak Pareto norm says that other things being equal, achieving Pareto optimality is desirable. The strong Pareto norm says that the goal of achieving Pareto optimality should take absolute priority over all other values.

The principle of strict equality conflicts with the strong, not the weak, Pareto norm. So if one's response to the conflict between Pareto optimality and equality is to give equality no weight at all in conflict with Pareto, my hunch is that the explanation of this response is likely to be that one gives little or no weight to equality *per se* (contrary



to what one might initially have supposed). After all, where a fairness or equity requirement that elicits strong allegiance conflicts with the strong Pareto norm, the committed will dig in their heels: 'So much the worse for efficiency.'

A commitment to adherence to the norm of strict equality when it conflicts with the Pareto norm need not involve complete indifference to the level of human welfare or well-being at which equality is sustained. For instance, one might opt for the view that equality should be always sustained at the highest feasible level of welfare for all. This view might be motivated by the background beliefs that (1) people's welfare should be proportional to their personal deservingness, and (2) no one ever really is more deserving than another person because the achievements and dispositions that are cited as evidence of superior deservingness always turn out under examination to be determined by features of inheritance and favourable socialization for which the supposedly deserving individual can take no credit. So everyone's deservingness is always the same as anyone else's and if people are to be rewarded according to their deservingness their rewards should always be exactly equal. But what is odd about these background beliefs is the combination of the thoughts that the conditions of differential deservingness among persons are never met and that deservingness still matters morally a great deal.

### *Equality versus tilting towards the worse off*

If you give lexical priority to the Pareto norm over the principle of strict equality, my suggestion is that this ranking reveals that equality *per se* matters little or not at all to you. One possibility worth exploring is that the commitment to egalitarianism is not a matter of favouring equality *per se* but a matter of giving priority to the worst off. Parfit (1990) explores the differences between these and related moral norms.

It is instructive to observe how giving priority to the interests of the worse off might readily be conflated with valuing equality of condition for its own sake when the task is to distribute a fixed stock of goods. Suppose that we have on hand a fixed stock of the good X, which can be divided as finely as one pleases. X is intrinsically valuable, not merely valuable as a means to further goods, and the morally appropriate distribution of X is thought to be desirable for its own sake and not merely as a means to achieving a distribution of some further good. There are N individuals in society and for each of them, the more of X one has, the better off one is. If the task is to distribute X according to one's moral values, the goal of equal distribution and the goal of doing as well as one can for the worst off both recommend the same choice of distribution: divide X so that each of the N persons has an equal share, a  $1/N$  share. Indeed, not only a strict leximin priority for the worst off recommends equal division; any rule that assigns even slightly greater weight to the worst off as against everyone else would recommend equal division.

The differences between literal equality and priority to the worst off only emerge into view when one considers examples in which how one distributes a stock of goods affects aggregate production of the final good whose distribution is the object of moral concern. Consider a simple two-period example in which the pattern of distribution in the first period affects the amount to be distributed as well as the pattern of distribution in the second period. Imagine that society can choose between just two distributions: one



which yields an equal distribution of utility for all persons summed across the two periods, and another distribution, which induces able individuals to produce more in the first period by offering a reward of high consumption in the second period for high production in the first period. In the second distribution there is inequality of utility but everyone is better off under this distribution than they would be under the equal distribution rule. In this example the norm of equalizing utility favours the equal distribution choice while the norm of maximizing utility giving priority to the worst off favours the unequal distribution because the worst off do better under inequality than under the regime of equality. Equality is only instrumentally valuable from the perspective of the norm of giving priority to the interests of the worst off.

This tilting conception of egalitarianism is given a specific expression in John Rawls's difference principle, the maximin norm (Rawls, 1971). Thomas Nagel (1979, pp. 117–18) offers this characterization of the general idea: 'The essential feature of an egalitarian priority system is that it counts improvements to the welfare of the worse off as more urgent than improvements to the welfare of the better off.' The idea of giving priority to the worse off is of course independent of the issue of whether one measures individual positions in terms of welfare, resources, functionings or some further alternative, but let that pass. If in pairwise competition one always favours the worse off, one ultimately favours the worst off, so Nagel continues: 'What makes a system egalitarian is the priority it gives to the claims of those whose overall life prospects put them at the bottom, irrespective of numbers or of overall utility.' Notice that the last phrase quoted from Nagel introduces a quite new idea: to the proposal to favour the least advantaged is now conjoined the much stronger requirement of lexical priority – a prohibition against trade-offs between the advantage of the least well off and the better off. But in the general case the maximin injunction to give lexical priority to the interests of the worst off in any conflict with the interests of better-off individuals is implausible. Maximin implies that if one's choices are limited to keeping the status quo or altering it by subtracting a penny from the holdings of the worst off so as to gain a million dollars for the second worst off, the status quo should be retained. Few would ratify such an extreme weighting. It would be better to examine Nagel's interpretation of egalitarianism separately from the issue of the appropriateness of lexical priority.

Let us say that a *tilting* conception of egalitarianism is one that assigns greater moral weight (as specified in the next sentence) to achieving same-sized gains or preventing same-sized losses for those persons who rank worse off than others on an ordinal scale. According to a tilting conception, the comparative moral urgency of bringing about a same-sized gain for one person as opposed to another is determined, so far as egalitarianism is concerned, entirely by their ordinal ranking. The worst off is given priority over the second worst off, who in turn is given priority over the third worst off, and so on. The comparative weighting, the degree of tilting towards the interests of the worse off, is a matter that this definition leaves open: this can vary from the extreme weighting of a maximin principle to a principle that accords just marginally greater urgency to gains for the worse off (such a principle would be barely distinguishable in its recommendations from a straight aggregate maximizing principle).

Tilting conceptions including Rawlsian maximin regard the moral urgency of achieving a benefit of a given size for a given person as a function solely of the ranking

that identifies how well off the person is by comparison with others (so long as the benefit to be conferred does not alter the comparative rankings). What counts is only whether the person is worst off, second worst off, and so on. The absolute amount of the gap that separates individuals at these various benefit levels does not have any bearing on the issue of moral urgency. But the information that tilting conceptions bid us ignore in deciding on our course of action is plainly relevant.

To illustrate the problem, consider the issue of the moral value of conferring a very small welfare gain on either the best-off or the worst-off member of society under two conditions, great inequality and approximate equality. Under great inequality the gap between worst off and best off is enormous, say 1000 on a welfare scale. Under approximate equality the distribution of welfare has been compressed so that there is only a very slight difference, say two units, between the welfare levels enjoyed by the best off and the worst off. Tilting principles will not find these two conditions morally distinguishable. Exactly the same priority will be assigned to aiding the worst off in the two conditions. But I submit that whether we confer a welfare gain on the best off or the worst off is intuitively a matter of grave urgency when the gap between top and bottom is very great and a morally inconsiderable matter when the gap between top and bottom is very small. Moreover, it is not just the absolute value of the gap between top and bottom welfare levels that is decisive for judgements ranking the moral urgency of giving aid to better off or worse off, but also the absolute value of the welfare level enjoyed by the worse off. (An absolute gap of 8 between the welfare levels of top and bottom might qualify as a great gap if the initial welfare level of the worst off is zero yet would qualify as a small gap if the initial welfare level enjoyed by the worst off is 1000 on the same scale.)

It is implausible to suppose that only ordinal welfare rankings determine the moral value of conferring a gain of a given size on a person. Consider instead the thought that comparison of any sort is a secondary phenomenon in determining the value of conferring a gain on a person. This is the thought raised by Frankfurt above (1987, p. 498). Consider this principle: the moral value of achieving a welfare gain of a given size (or preventing the loss of a given size) for a person is greater, the lower is that person's cardinal welfare level (Weirich, 1983). This principle is not essentially comparative, as we can see by noting that it has implications for a one-person Robinson Crusoe world. (Suppose that there are two moral principles that should guide Crusoe: respect the natural environment for its own sake, and increase your welfare. The principle we are considering tells Crusoe that the higher his welfare becomes, the more weight he should give to respecting the environment.) But of course, in cases where we have to choose between helping one of several persons, the principle (once rendered determinate in content) would provide a basis for comparison that would determine the moral urgency of helping one rather than another.

## Conclusion

One lesson of this chapter is that equality of life prospects is an elusive ideal. Versions of it abound. The indefiniteness of this egalitarian ideal tends to obscure the issue of its attractiveness. My hunch is that for many persons (including myself) who regard

themselves as egalitarians, the content of this concern has nothing to do with favouring equality *per se* or even with giving priority to the worse off. The underlying value that supports equality sometimes and giving priority to the worst off often is the idea that the moral benefit of conferring a given benefit on a person is greater, the worse off the person is prior to receipt of this benefit. But whether or not one happens to agree with this thought, it should be agreed that the extent to which it is rational to endorse the norm of equality cannot be determined until equality is distinguished from priority to the worse off and other, different values with which it might be conflated. 'How could it not be an evil that some people's life prospects at birth are radically inferior to others?' Nagel (1991, p. 28) asks. But in fact, Nagel agrees with Rawls that to the extent that these inequalities were found to be maximally productive for those who suffer inferior prospects, the inequalities would not be morally regrettable.

The displacement of equality by other moral ideals can seem disquieting. In the writings of several of the authors canvassed in this survey one can discern in those who reject some versions of equality a tendency to cast about for some sort of equality that can be embraced as intrinsically morally desirable. Rejecting simple equality, Walzer endorses complex equality (whatever that is). Rejecting any ideal of equality of condition prescribing equal distribution of some good to all members of society, Miller (1990) endorses equality of status, which is stipulated as holding just in case every citizen regards herself as fundamentally the equal of every other citizen. (This ideal could be met in a hierarchical feudal or *laissez-faire* capitalist society all of whose members are Christian and regard each other as equally loved by God and so fundamentally equals.)

Even Ronald Dworkin, who at least tentatively appears to endorse equality of resources as a distributive ideal, regards a commitment to equality of resources as flowing from a commitment to a more abstract and more fundamental political ideal of treating all citizens as equals. Government has 'an abstract responsibility to treat each citizen's fate as equally important' (1986, p. 296). According to this abstract conception of equality, 'the interests of each member of the community matter, and matter equally' (Kymlicka, 1990, p. 4). Abstract equality is also said to require the government to treat all citizens with equal concern. In response: these formulations are not equivalent to one another. Different notions are being bandied about under the heading of 'abstract equality'. Roughly, what the ideal of abstract equality appears to come to is non-discrimination or impartiality: a government should not arbitrarily discriminate in its treatment of one citizen versus another, but should impartially treat all citizens in a principled way. The interests of any citizen should weigh the same as any other in government policy, according to whatever function mapping interests to policy is entailed by correct principles. Without further substantive moral premisses this abstract 'equality' does not imply egalitarian treatment of citizens in any substantive sense. If Dworkin ends up endorsing any conception of equality of life prospects, that posture cannot be supported by interpreting abstract equality. No amount of interpretation of a non-egalitarian premiss will imply a substantively egalitarian principle without the addition of substantive moral premisses. The rhetoric of 'interpretation' and of rendering 'abstract' equality more 'concrete' can only serve to obscure exactly what those premisses might be and what reasons might support them.

## 2 Equality is compatible with and required by liberty<sup>1</sup>

*James P. Sterba*

Is liberty compatible with equality? Following out the strategy proposed in the general introduction, I will seek to answer this question by starting with the libertarian's own ideal of negative liberty and then try to show that that ideal, when correctly interpreted, leads to substantial equality. I will then turn to an examination of other arguments that have sought to support similar conclusions and explain why those arguments are not as effective as my own. Finally, I will consider the main objections to my argument that have been raised by libertarians and my replies to those objections, where I will take up, in particular and at length, Jan Narveson's own objections to my argument from liberty to equality.

### 1 The practical requirements of liberty

#### From liberty to welfare

Libertarians like to think of themselves as defenders of liberty. F. A. Hayek, for example, sees his work as restating an ideal of

1 This essay draws and considerably improves upon earlier attempts of mine to construct an argument from liberty to equality and to deal with critiques that have been raised against these attempts found in *How To Make People Just* (Lanham, MD: Rowman and Littlefield, 1988), chs. 2, 7, and 11; *Justice for Here and Now* (New York: Cambridge University Press, 1998), chs. 2 and 3; *The Triumph of Practice Over Theory in Ethics* (New York: Oxford University Press, 2005), chs. 2 and 3; and "Completing the Kantian Project: From Rationality to Equality," *APA Presidential Addresses: Proceedings of the American Philosophical Association* 82, 2 (November 2008), pp. 47–83. Material from these earlier works is used with permission.

liberty for our times. "We are concerned," says Hayek, "with that condition of men in which coercion of some by others is reduced as much as possible in society."<sup>2</sup> Similarly, John Hospers believes that libertarianism is "a philosophy of personal liberty – the liberty of each person to live according to his own choices, provided that he does not attempt to coerce others and thus prevent them from living according to their choices."<sup>3</sup> And Robert Nozick claims that, if a conception of justice goes beyond libertarian "side-constraints," it cannot avoid the prospect of continually interfering with people's lives.<sup>4</sup>

Yet while libertarians endorse an ideal of liberty, they interpret it in different ways. For some, liberty is defined as follows:

*The want conception of liberty:* Liberty is being unconstrained by other persons from doing what one wants.<sup>5</sup>

This conception limits the scope of liberty in two ways. First, not all constraints, whatever their source, count as a restriction of liberty; the constraints must come from other persons. For example, people who are constrained by natural forces from getting to the top of Mount Everest do not lack liberty in this regard. Second, constraints that have their source in other persons, but that do not run counter to an individual's wants, constrain without restricting that individual's liberty. Thus, for people who do not want to hear Beethoven's Fifth Symphony, the fact that others have effectively proscribed its performance does not restrict their liberty, even though it does constrain what they are able to do.

Of course, some may wish to argue that even such constraints can be seen to restrict a person's liberty once we take into account the fact that people normally want, or have a general desire, to be unconstrained by others. But others have thought

2 F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 11.

3 John Hospers, *Libertarianism* (Los Angeles: Nash Publishing, 1971), p. 5.

4 Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. ix.

5 Hospers, *Libertarianism*, p. 5.

that the possibility of such constraints points to a serious defect in this conception of liberty,<sup>6</sup> which can only be remedied by adopting the following broader conception of liberty:

*The ability conception of liberty:* Liberty is being unconstrained by other persons from doing what one is able to do.

Applying this conception to the above example, we find that people's liberty to hear Beethoven's Fifth Symphony would be restricted even if they did not want to hear it (and even if, perchance, they did not want to be unconstrained by others) since other people would still be constraining them from doing what they are able to do.

Moreover, it is important to note that being unconstrained from doing what one is unable to do does not constitute a liberty. Of course, some philosophers would object to this account, claiming, for example, that people might be free or have the liberty to run a four-minute mile even when they are unable to do so. However, if we allow that people can have the liberty to do what they are unable to do, then, presumably, they can also lack the liberty to do or be constrained from doing what they are unable to do, which seems absurd.

One reason why some philosophers have held that people can have the liberty to do what they are unable to do is that they believed that something of value is lost even when such a "liberty" is taken away.<sup>7</sup> Hayek, for example, suggests that penniless vagabonds who live precariously dependent on their own wits have more liberty than conscripted soldiers with all their security and relative comfort, despite the fact that the vagabonds lack the ability to derive much benefit from their liberty.<sup>8</sup> Yet although it is true that the vagabonds would lack the ability to derive much benefit from their liberty, it is also true that they would have the

6 Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford University Press, 1969), pp. xxxviii xl.

7 John Gray, "On Negative and Positive Liberty," *Political Studies* 29 (1980), pp. 507–26.

8 Hayek, *Constitution of Liberty*, p. 18.



ability to exercise that liberty, however unsuccessfully, and it is this ability which is presupposed by the possession of any liberty whatsoever. Thus, in general, while it is possible to confuse having a liberty with having certain sorts of abilities (for example, having the liberty to run a four-minute mile with the ability to succeed in doing so), at the same time, it should be recognized that having a liberty does presuppose the ability to exercise that liberty in some fashion or other, however unsuccessfully. As a consequence, all liberties determined by the Want Conception of Liberty will turn out to be liberties according to the Ability Conception as well.

Of course, there will also be numerous liberties determined by the Ability Conception that are not liberties according to the Want Conception. For example, there will be highly talented students who surprisingly do not want to pursue careers in philosophy, even though no one constrains them from doing so. Accordingly, the Ability Conception but not the Want Conception would view them as possessing a liberty. And even though such liberties are generally not as valuable as those liberties that are common to both conceptions, they still are of some value, even when the manipulation of people's wants is not at issue. This seems, therefore, to be a good reason for favoring the Ability over the Want Conception of Liberty.

Yet even if we endorse the Ability Conception of Liberty, problems of interpretation still remain. The major problem concerns what is to count as a constraint. On the one hand, libertarians would like to limit constraints to positive acts (that is, acts of commission) that prevent people from doing what they are otherwise able to do. On the other hand, welfare liberals interpret constraints to include, in addition, negative acts (that is, acts of omission) that prevent people from doing what they are otherwise able to do. In fact, this is one way to understand the debate between defenders of "negative liberty" and defenders of "positive liberty." For defenders of negative liberty would seem to interpret constraints to include only positive acts of others that prevent people from doing what they otherwise are able to do, while defenders of positive liberty would seem to interpret

constraints to include both positive and negative acts of others that prevent people from doing what they are otherwise able to do.<sup>9</sup>

So in order not to beg the question against libertarians, suppose we interpret constraints in the manner favored by them to include only positive acts by others that prevent people from doing what they otherwise either want and are able to do, or are just able to do.<sup>10</sup>

Libertarians go on to characterize their political ideal as requiring that each person should have the greatest amount of liberty morally commensurate with the greatest amount of liberty for everyone else.<sup>11</sup> Interpreting their ideal in this way, libertarians claim to derive a number of more specific requirements, in particular, a right to life, a right to freedom of speech, press, and assembly, and a right to property.

Here it is important to observe that the libertarian's right to life is not a right to receive from others the goods and resources necessary for preserving one's life; it is simply a right not to have one's life interfered with or ended unjustly. Correspondingly, the libertarian's right to property is not a right to receive from others the goods and resources necessary for one's welfare, but rather typically a right not to be interfered with in regard to any goods and resources that one has legitimately acquired either by initial acquisition or by voluntary agreement.<sup>12</sup>

9 On this point, see Maurice Cranston, *Freedom* (New York: Basic Books, 1953), pp. 52–3; C. B. Macpherson, *Democratic Theory* (Oxford: Oxford University Press, 1973), p. 95; and Joel Feinberg, *Rights, Justice and the Bounds of Liberty* (Princeton: Princeton University Press, 1980), ch. 1.

10 I have earlier referred in a shorthand and somewhat imprecise way to "people doing what they want or are able to do" where I understood the first disjunct to include "and are able," as was clearly implied by the surrounding discussion.

11 Hospers, *Libertarianism*, ch. 7, and Tibor Machan, *Human Rights and Human Liberties* (Chicago: Nelson Hall, 1975), pp. 231ff. We should think about the libertarian ideal of liberty as securing for each person the largest morally defensible bundle of liberties possible.

12 Property can also be legitimately acquired on the libertarian view by producing it out of what one already owns or legitimately possesses.

### A partial defense

In support of their view, libertarians have advanced examples of the following sort. The first two are adapted from Milton Friedman, the last from Robert Nozick.<sup>13</sup>

In the first example, you are to suppose that you and three friends are walking along the street and you happen to notice and retrieve a \$100 bill lying on the pavement. Suppose a rich fellow had passed by earlier throwing away \$100 bills, and you have been lucky enough to find one of them. Now, according to Friedman, it would be nice of you to share your good fortune with your friends. Nevertheless, they have no right to demand that you do so, and, hence, they would not be justified in forcing you to share the \$100 bill with them. Similarly, Friedman would have us believe that it would be nice of us to provide welfare to the less fortunate members of our society. Nevertheless, the less fortunate members have no right to welfare, and hence they would not be justified in forcing us to provide such.

The second example, which Friedman regards as analogous to the first, involves supposing that there are four Robinson Crusoes, each marooned on one of four uninhabited islands in the same neighborhood. One of these Crusoes happens to land on a large and fruitful island, which enables him to live easily and well. The others happen to land on tiny and rather barren islands from which they can barely scratch a living. Suppose one day they discover the existence of each other. Now, according to Friedman, it would be nice of the fortunate Robinson Crusoe to share the resources of his island with the other three Crusoes, but the other three Crusoes have no right to demand that he share those resources, and it would be wrong for them to force him to do so. Correspondingly, Friedman thinks it would be nice of us to provide the less fortunate in our society with welfare, but the less fortunate have no right to demand that we do so, and it would be wrong for them to force us to do so.

13 See Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), pp. 161–72; Nozick, *Anarchy, State, and Utopia*, pp. 160–4.

In the third example, Robert Nozick asks us to imagine that we are in a society that has just distributed income according to some ideal pattern, possibly a pattern of equality. We are further to imagine that in such a society someone with the talents of Wilt Chamberlain or Michael Jordan offers to play basketball for us provided that he receives, let us say, one dollar from every home-game ticket that is sold. Suppose we agree to these terms, and two million people attend the home games to see this new Wilt Chamberlain or Michael Jordan play, thereby securing for him an income of two million dollars. Since such an income would surely upset the initial pattern of income distribution whatever that happened to be, Nozick contends that this illustrates how an ideal of liberty upsets the patterns required by other conceptions of justice, and hence calls for their rejection.

Of course, libertarians allow that it would be nice of the rich to share their surplus goods and resources with the poor, just as Milton Friedman would allow that it would be nice of you to share the \$100 you found with your friends, and nice of the rich-islanded Robinson Crusoe to share his resources with the poor-islanded Robinson Crusoes. Nevertheless, they deny that government has a duty to provide for such needs. Some good things, such as providing welfare to the poor, are requirements of charity rather than justice, libertarians claim. Accordingly, failure to make such provisions is neither blameworthy nor punishable. As a consequence, such acts of charity should not be coercively required. For this reason, libertarians are opposed to coercively supported welfare programs.

### The ideal of liberty and the problem of conflict

Now in order to see why libertarians are mistaken about what their ideal requires, consider a conflict situation between the rich and the poor. In this conflict situation, the rich, of course, have more than enough resources to satisfy their basic needs.<sup>14</sup>

<sup>14</sup> Basic needs, if not satisfied, lead to significant lacks or deficiencies with respect to a standard of mental and physical well being. Thus, a person's needs for food, shelter, medical care, protection, companionship, and

In contrast, imagine that the poor lack the resources to meet their basic needs so as to secure a decent life for themselves, even though they have tried all the means available to them that libertarians regard as legitimate for acquiring such resources. Under circumstances like these, libertarians maintain that the rich should have the liberty to use their resources to satisfy their luxury needs if they so wish. Libertarians recognize that this liberty might well be enjoyed with the consequence that the satisfaction of the basic needs of the poor will not be met; they just think that liberty always has priority over other political ideals, and since they assume that the liberty of the poor is not at stake in such conflict situations, it is easy for them to conclude that the rich should not be required to sacrifice their liberty so that the basic needs of the poor may be met.

Of course, libertarians allow that it would be nice of the rich to share their surplus resources with the poor. Nevertheless, according to libertarians, such acts of charity are not required because the liberty of the poor is not thought to be at stake in such conflict situations.

In fact, however, the liberty of the poor is at stake in such conflict situations. What is at stake is the liberty of the poor not to be interfered with in taking from the surplus possessions of the rich what is necessary to satisfy their basic needs.

Needless to say, libertarians want to deny that the poor have this liberty. But how can they justify such a denial? As this liberty of the poor has been specified, it is not a positive liberty to receive something but a negative liberty of noninterference. Clearly, what libertarians must do is recognize the existence of such a liberty and then claim that it unjustifiably conflicts with other liberties of the rich. But when libertarians see that this is the case, they are often genuinely surprised, for they had not previously seen the conflict between the rich and the poor as a conflict of liberties. In responding to my work in recent years,

self development are, at least in part, needs of this sort. For a discussion of basic needs, see my *How to Make People Just* (Lanham, MD: Rowman and Littlefield, 1988), pp. 45–8.

libertarians Tibor Machan, Eric Mack, and Jan Narveson, among others, have come grudgingly to recognize that this liberty of the poor, as I have specified it, is indeed a negative liberty, but then they want to go on to argue that this liberty is illegitimate.<sup>15</sup>

Now when the conflict between the rich and the poor is viewed as a conflict of liberties, we can either say that the rich should have the liberty not to be interfered with in using their surplus resources for luxury purposes, or we can say that the poor should have the liberty not to be interfered with in taking from the rich what they require to meet their basic needs. If we choose one liberty, we must reject the other. What needs to be determined, therefore, is which liberty is morally enforceable: the liberty of the rich or the liberty of the poor.<sup>16</sup>

### The “ought” implies “can” principle

I submit that the liberty of the poor, which is the liberty not to be interfered with in taking from the surplus resources of others what is required to meet one’s basic needs, is morally enforceable over the liberty of the rich, which is the liberty not to be interfered with in using one’s surplus resources for luxury purposes. To see that this is the case, we need only appeal to one of the most fundamental principles of morality, one that is common to all moral and political perspectives, namely, the “ought” implies “can” principle. According to this principle, people are not morally required to do what they lack the power to do or what would involve so great a sacrifice or restriction that it is unreasonable to ask them, or in cases of severe conflict of interest, unreasonable to require them to abide by.

For example, suppose I promised to attend a departmental meeting on Friday, but on Thursday I am involved in a serious car accident that puts me into a coma. Surely it is no longer the

15 Tibor Machan, *Libertarianism Defended* (Burlington, VT: Ashgate, 2006), ch. 20; Eric Mack, “Libertarianism Untamed,” *Journal of Social Philosophy* 22 (1991), pp. 64–72; and Jan Narveson, “Sterba’s Program of Philosophical Reconciliation,” *Journal of Social Philosophy* 30 (1999), pp. 401–10.

16 Libertarians have never rejected the need for enforcement when important liberties are at stake.



case that I ought to attend the meeting, now that I lack the power to do so. Or suppose instead that on Thursday I develop a severe case of pneumonia for which I am hospitalized. Surely I can legitimately claim that I cannot attend the meeting on the grounds that the risk to my health involved in attending is a sacrifice that is unreasonable to ask me to bear. Or suppose instead that the risk to my health from having pneumonia is not so serious, and it is reasonable to ask me to attend the meeting (a supererogatory request). However, it might still be serious enough to be unreasonable to require my attendance at the meeting (a demand that is backed up by blame and coercion).<sup>17</sup>

This “ought” implies “can” principle claims that reason and morality must be linked in an appropriate way, especially if we are going to be able to justifiably use blame or coercion to get people to abide by the requirements of morality. It should be noted, however, that although major figures in the history of philosophy, and most philosophers today, including virtually all libertarian philosophers, accept this linkage between reason and morality, this linkage is not usually conceived to be part of the “ought” implies “can” principle.<sup>18</sup> Nevertheless, I claim that

- 17 The reason for distinguishing between these two cases with respect to the “ought” implies “can” principle is that when interpersonal conflicts of interest are not severe, moral resolutions must still be reasonable to ask everyone affected to accept, but they need not be reasonable to *require* everyone affected to accept. This is because not all moral resolutions can be justifiably enforced; only moral resolutions of severe interpersonal conflicts of interest can and *should* be justifiably enforced. Furthermore, the reason why moral resolutions of severe interpersonal conflicts of interest should be enforced is that if the parties are simply asked but not required to abide by a moral resolution in such cases of conflict, then it is likely that the stronger party will violate the resolution and that would be unreasonable to ask or require the weaker party to accept.
- 18 This linkage between morality and reason is expressed in the belief that (true) morality and (right) reason cannot conflict. Some supporters of this linkage have developed separate theories of rationality and reasonableness, contending, for example, that, while egoists are rational, those who are committed to morality are both rational and reasonable. On this interpretation, morality is rationally permissible but not rationally required, since egoism is also rationally permissible. Other supporters of the linkage between reason and morality reject the idea of separate theories of rationality

there are good reasons for associating this linkage with the principle, namely, our use of the word “can” as in the example just given, and the natural progression from logical, physical, and psychological possibility found in the traditional “ought” implies “can” principle to the notion of moral possibility found in my formulation of the principle. In any case, the acceptability of my formulation of the “ought” implies “can” principle is determined by the virtually universal, and arguably necessary, acceptance of its components and not by the manner in which I have proposed to join those components together.<sup>19</sup>

Now applying the “ought” implies “can” principle to the case at hand, it seems clear that the poor have it within their power to relinquish such an important liberty as the liberty not to be interfered with in taking from the rich what they require to meet their basic needs. They could do this. Nevertheless, it is unreasonable in this context to require them to accept so great a restriction. In the extreme case, it involves requiring the poor to sit back and starve to death. Of course, the poor may have no real alternative to relinquishing this liberty. To do anything else may involve worse consequences for themselves and their loved ones and may invite a painful death. Accordingly, we may expect that the poor would acquiesce, albeit unwillingly, to a political system that denied them the right to welfare supported by such a

and reasonableness, contending that morality is not just rationally permissible but also rationally required and that egoism is rationally impermissible. But despite their disagreement over whether there is a separate theory of rationality distinct from a theory of reasonableness, most in both groups usually link morality with a notion of reasonableness that incorporates a certain degree of altruism. But for those who do not so link morality with a notion of reasonableness that incorporates a certain degree of altruism, and instead favor a self interested based Hobbesian perspective a nonquestion begging argument for making that linkage in the last section of my essay in connection with my discussion of Jan Narveson’s form of libertarianism, is absolutely necessary.

<sup>19</sup> It should be pointed out that the “ought” implies “can” principle primarily ranges over that part of morality which we can justifiably enforce against others because we can reasonably expect that its requirements are accessible to those to whom they apply.

liberty, at the same time we recognize that such a system has imposed an unreasonable restriction upon the poor – a restriction that we could not morally blame the poor for trying to evade.<sup>20</sup> Analogously, we might expect that a woman whose life is threatened would submit to a rapist's demands, at the same time that we recognize the utter unreasonableness of those demands. By contrast, it is not unreasonable to require the rich in this context to sacrifice the liberty to meet some of their luxury needs so that the poor can have the liberty to meet their basic needs. Naturally, we might expect that the rich, for reasons of self-interest or past contribution, might be disinclined to make such a sacrifice. We might even suppose that the past contribution of the rich provides a good reason for not sacrificing their liberty to use their surplus for luxury purposes. Yet, the rich cannot claim that relinquishing such a liberty involves so great a sacrifice that it is unreasonable to require them to make it; unlike the poor, the rich are morally blameworthy and subject to coercion for failing to make such a sacrifice.

Consequently, if we assume that however else we specify the requirements of morality, they cannot violate the "ought" implies "can" principle, it follows that, despite what libertarians claim, the right to liberty endorsed by them actually favors the liberty of the poor over the liberty of the rich.<sup>21</sup>

This means that within the bundle of liberties allotted to each person by the basic principle of libertarianism, there must be the liberty not to be interfered with (when one is poor) in taking from the surplus possessions of the rich what is necessary to satisfy one's basic needs. This must be part of the bundle that constitutes the greatest amount of liberty for each person because this liberty is morally superior to the liberty with which it directly conflicts, that is, the liberty not to be interfered with

20 This is also a restriction that we could legitimately coercively stop.

21 Moreover, while application of the unreasonable standard of the "ought" implies "can" principle can be disputable in some contexts, I will argue that in the context where we have coercively to enforce either the liberty of the poor or the liberty of the rich, the standard does offer a clear resolution, one that favors the liberty of the poor over the liberty of the rich.

(when one is rich) in using one's surplus possessions to satisfy one's luxury needs. In this context, the "ought" implies "can" principle establishes the moral superiority and enforceability of the liberty of the poor over the liberty of the rich.<sup>22</sup>

Yet couldn't libertarians object to this conclusion, claiming that it would be unreasonable to require the rich to sacrifice the liberty to meet some of their luxury needs so that the poor can have the liberty to meet their basic needs? As I have pointed out, libertarians do not usually see the situation as a conflict of liberties, but suppose they did. How plausible would such an objection be? Not very plausible at all, I think.

For consider: what are libertarians going to say about the poor? Isn't it clearly unreasonable to require the poor to restrict their liberty to meet their basic needs so that the rich can have the liberty to meet their luxury needs? Isn't it clearly unreasonable to coercively require the poor to sit back and starve to death? If it is, then, there is no resolution of this conflict that is reasonable to coercively require both the rich and the poor to accept. But that would mean that libertarians could not be putting forth a moral resolution because a moral resolution, according to the "ought" implies "can" principle, resolves severe conflicts of interest in ways that it is reasonable to require everyone affected to accept,<sup>23</sup> where it is further understood that a moral resolution can sometimes require us to act in accord with altruistic reasons.<sup>24</sup> Therefore, as long as

22 Here again we should think about the libertarian ideal of liberty as securing for each person the largest morally defensible bundle of liberties possible.

23 This requirement "that moral resolutions must resolve conflicts of interest in ways that it is reasonable to require everyone affected to accept" is actually the contrapositive of the "ought" implies "can" principle, as I stated it in the text. While the "ought" implies "can" principle claims that if any action is not reasonable to ask or require a person to do, all things considered, that action is not morally required or a moral resolution for that person, all things considered [  $R/C(A \vee \text{Req}) \rightarrow M\text{Req}/M\text{Res}$  ], this requirement claims that if any action is morally required or a moral resolution for a person to do, all things considered, that action is reasonable to ask or require that person to do, all things considered [  $M\text{Req}/M\text{Res} \rightarrow R/C(A \vee \text{Re})$  ].

24 As we shall see, the basis for this understanding is the priority of high ranking altruistic reasons over conflicting low ranking self interested reasons that is

libertarians think of themselves as putting forth a moral resolution, they cannot allow that it is unreasonable in cases of severe conflict of interest both to require the rich to restrict their liberty to meet their luxury needs in order to benefit the poor and to require the poor to restrict their liberty to meet their basic needs in order to benefit the rich. But I submit that if one of these requirements is to be judged reasonable, then, by any neutral assessment, it must be the requirement that the rich restrict their liberty to meet their luxury needs so that the poor can have the liberty to meet their basic needs; there is no other plausible resolution, if libertarians intend to put forth a moral resolution.<sup>25</sup>

It should also be noted that this case for restricting the liberty of the rich depends upon the willingness of the poor to take advantage of whatever opportunities are available to them to engage in mutually beneficial work, so that failure of the poor to take advantage of such opportunities would normally cancel the obligation of the rich to restrict their own liberty for the benefit of the poor.<sup>26</sup> In addition, the case for favoring the liberty of the poor is also conditional on there being sufficient resources available to meet everyone's basic needs.

nonquestion beggingly justified in Morality as Compromise combined with the further realization (following from our discussion of the libertarian ideal of liberty) that since we must coercively support one or the other of these reasons, we should support (require) the reason that has moral priority, in this case, the high ranking altruistic reason that corresponds to the negative liberty of the poor not to be interfered with in taking from the surplus of the rich what they require to meet their basic needs.

25 By the liberty of the rich to meet their luxury needs, I continue to mean the liberty of the rich not to be interfered with when using their surplus possessions for luxury purposes. Similarly, by the liberty of the poor to meet their basic needs, I continue to mean the liberty of the poor not to be interfered with when taking what they require to meet their basic needs from the surplus possessions of the rich.

26 The employment opportunities offered to the poor must be honorable and supportive of self respect. To do otherwise would be to offer the poor the opportunity to meet some of their basic needs at the cost of denying some of their other basic needs.

Of course, there will be cases where the poor fail to satisfy their basic needs, not because of any direct restriction of liberty on the part of the rich, but because the poor are in such dire need that they are unable even to attempt to take from the rich what they require to meet their basic nutritional needs. Accordingly, in such cases, the rich would not be performing any act of commission that prevents the poor from taking what they require. Yet, even in such cases, the rich would normally be performing acts of commission that prevent other persons from aiding the poor by taking from the surplus possessions of the rich. And when assessed from a moral point of view, restricting the liberty of these other persons would not be morally justified for the very same reason that restricting the liberty of the poor to meet their own basic needs would not be morally justified: it would not be reasonable to ask all of those affected to accept such a restriction of liberty.

Notice too that it is not the mere size of the sacrifice required of the poor that is objectionable about the possibility of favoring the liberty of the rich over the liberty of the poor because sometimes morality does require great sacrifices from us. For example, it requires us to refrain from intentionally killing innocent people even to save our lives.<sup>27</sup> Rather, what is objectionable about this possibility is the size of the sacrifice that the poor would be required to bear compared to the size of the benefit that would otherwise be secured for the rich. In the case of the prohibition against intentionally killing innocent people, the sacrifice that violating this prohibition would impose on (innocent) people is normally greater than the benefit we ourselves and others would realize from violating that prohibition; hence the reasonableness of the prohibition. Correspondingly, in the conflict between the rich and the poor, the sacrifice that would be imposed on the poor by denying them the satisfaction of their

27 Narveson raises the objection that it cannot just be the size of the sacrifice that is required because sometimes morality does require significant sacrifice. See his "A Critique of Sterba's Defense of the Welfare State," in *Political Philosophy*, ed. Louis Pojman (New York: McGraw Hill, 2002), p. 231.



basic needs is clearly greater than the benefit the rich would obtain from satisfying their nonbasic or luxury needs; hence the unreasonableness of imposing such a sacrifice on the poor. In this case, it is more reasonable to require a certain degree of altruism from the rich than to require an even greater degree of altruism from the poor. In all such cases, the goal is to avoid imposing an unreasonable sacrifice on anyone, where the reasonableness of the sacrifice is judged by comparing the alternative possibilities.

It is sometimes thought that there is a different interpretation of libertarianism where rights, not liberties, are fundamental and where another argument is needed to establish the conclusion I have just established here.<sup>28</sup> Under this presumptively different interpretation, the rights taken as fundamental are a strong right to property and a weak right to life. Yet given that for libertarians such rights are also rights of noninterference, that is (negative) liberty rights, the question arises of why we should accept these particular rights of noninterference (liberties) and not others – which is just the question that arises when we consider the conflicting liberties to which an ideal of liberty gives rise. What this shows is that the “rights” interpretation of libertarianism is not really distinct from the “liberty” interpretation we have just been discussing.

One might think that once the rich realize that the poor should have the liberty not to be interfered with when taking from the surplus possessions of the rich what they require to satisfy their basic needs, it would be in the interest of the rich to stop producing any surplus whatsoever.

Suppose a producer who could produce a surplus did not want to do so even though she knew that others needed that surplus to meet their basic needs. Imagine that these others through no fault of their own could not produce enough to meet their own basic needs and that their basic needs would be met only if they took from the nonsurplus resources of the producer

28 For a time, I thought so myself. See my *Justice for Here and Now* (New York: Cambridge University Press, 1998), ch. 3.

or threatened to do so in order to motivate her to produce more. In these circumstances, I think that the producer could be legitimately interfered with by those seeking in the only way possible to meet their basic needs by appropriating or threatening to appropriate her nonsurplus resources.

Of course, the producer in this case would probably respond to the appropriations or threat to appropriate by producing more.<sup>29</sup> Nevertheless what the producer is morally required to do is not that, but rather not to interfere with the appropriation or the threat to appropriate her nonsurplus resources by others who are in need through no fault of their own and who cannot meet their own basic needs in any other way.

Of course, our producer could respond by doing nothing. The poor could then appropriate the nonsurplus resources of the producer, and then, by not producing more, the producer would just waste away because she is unwilling to be more productive. If that happens, then both the poor and the producer would lose out due to the inaction of the producer. Still, the producer is not obligated to respond to the negative welfare right of the poor by doing something productive, however self-destructive being unproductive would be for her. This is how the negative right to welfare differs from a positive right requiring the producer to do something. It falls short of what a positive right to welfare can do for the poor. Yet it only falls short when the producers of the world choose to act in a self-destructive way – a very unlikely possibility.

Nevertheless, libertarians might respond that even supposing welfare rights could be morally justified on the basis of the liberty of the poor not to be interfered with in taking from the rich in order to meet their basic nutritional needs and the liberty of third parties not to be interfered with in taking from the rich in order to provide for the basic nutritional rights of the poor, the poor still would be better off without the enforcement of such

29 Working for one's fellow citizens is somewhat analogous to fighting for them, but libertarians are unlikely to see it that way.

rights.<sup>30</sup> For example, it might be argued that when people are not forced through taxation to support a system of welfare rights, they are both more productive, since they are able to keep more of what they produce, and more charitable, since they tend to give more freely to those in need when they are not forced to do so. As a result, so the argument goes, the poor would benefit more from the increased charity of a libertarian society than they would from the guaranteed minimum of a welfare state. Yet surely it is difficult to comprehend how people who are so opposed to the enforcement of welfare rights would turn out to be so charitable to the poor in a libertarian society.

Moreover, in a libertarian society, the provision of welfare would involve an impossible coordination problem. For if the duty to provide welfare to the poor is at best supererogatory, as libertarians claim, then no one can legitimately force anyone who does not consent to provide such welfare. The will of the majority on this issue could not be legitimately imposed upon dissenters.<sup>31</sup> Assuming then that the provision of welfare requires coordinated action on a broad front, such coordination could not be achieved in a libertarian society because it would require a near unanimous agreement of all its members.<sup>32</sup>

There is also an interesting practical reason why coercive welfare systems are needed. For many people, coercive welfare systems provide them with the opportunity to be as morally

30 See John Hospers, "The Libertarian Manifesto," in *Morality in Practice*, ed. James P. Sterba, 7th edn (Belmont: Wadsworth Publishing Co., 2004), pp. 21–31, esp. p. 31.

31 Sometimes advocates of libertarianism inconsistently contend that the duty to help others is supererogatory but that a majority of a society could justifiably enforce such a duty on everyone. See Theodore Benditt, "The Demands of Justice," in *Economic Justice*, ed. Diana Meyers and Kenneth Kipnis (Lanham, MD: Rowman & Littlefield, 1985), pp. 108–20.

32 Sometimes advocates of libertarianism focus on the coordination problems that arise in welfare states concerning the provision of welfare, and ignore the far more serious coordination problems that would arise in a night watchman state. See Burton Leiser, "Vagrancy, Loitering and Economic Justice," in *Economic Justice*, ed. Meyers and Kipnis, pp. 149–60.

good as they can be. This is because many people are willing to help the poor but only when they can be assured that other people, similarly situated, are making comparable sacrifices, and a coercive welfare system does provide the assurance that comparable sacrifices will be made by all those with a surplus. Such people, and there appear to be many of them, would not give, or not give as much, to the poor, without this coercive requirement.<sup>33</sup>

Nevertheless, it might still be argued that the greater productivity of the more talented people in a libertarian society would increase employment opportunities and voluntary welfare assistance, which would benefit the poor more than a guaranteed minimum would in a welfare state. But this simply could not occur. For if the more talented members of a society were to provide sufficient employment opportunities and voluntary welfare assistance to enable the poor to meet their basic needs, then the conditions for invoking a right to a guaranteed minimum in a welfare state would not arise, since the poor are first required to take advantage of whatever employment opportunities and voluntary welfare assistance are available to them before they can legitimately invoke such a right. Consequently, when *sufficient* employment opportunities and voluntary welfare assistance obtain, there would be no practical difference in this regard between a libertarian society and a welfare state, since neither would justify invoking a right to a guaranteed minimum. Only when *insufficient* employment opportunities and voluntary welfare assistance obtain would there be a practical difference between a libertarian society and a welfare state, and then it would clearly benefit the poor to be able to invoke the right to a guaranteed minimum in a welfare state. Consequently, given the conditional nature of the right to welfare, and the practical possibility and, in most cases, the actuality, of insufficient employment opportunities and voluntary welfare assistance

33 This issue is taken up again in conjunction with regard to an objection raised by Tibor Machan. See *Libertarianism Defended*, p. 36.

obtaining, there is no reason to think that the poor would be better off without the enforcement of such a right.<sup>34</sup>

In brief, if a right to liberty is taken to be basic, then, contrary to what libertarians claim, not only would a right to welfare be morally required but also such a right would clearly benefit the poor.<sup>35</sup>

Now it might be objected that the right to welfare that this argument establishes from libertarian premises is not the same as the right to welfare endorsed by welfare liberals and socialists. This is correct. We could mark this difference by referring to the right that this argument establishes as “a negative welfare right” and by referring to the right endorsed by welfare liberals as “a positive welfare right.” The significance of this difference is that a person’s negative welfare right can be violated only when other people through acts of commission interfere with its exercise, whereas a person’s positive welfare right can be violated not only by such acts of commission but by acts of omission as well. Nonetheless, this difference will have little practical import because in recognizing the legitimacy of negative welfare rights, libertarians will come to see that virtually any use of their surplus possessions is likely to violate the negative welfare rights of the poor by preventing

34 It is true, of course, that if the rich could retain the resources that are used in a welfare state for meeting the basic needs of the poor, they might have the option of using those resources to increase employment opportunities beyond what exists in any given welfare state, but this particular way of increasing employment opportunities does not seem to be the most effective way of meeting the basic needs of the poor, and it would not at all serve to meet the basic needs of those who cannot work.

35 What, you might ask, is my response to the defenses of libertarianism provided by the examples from Friedman and Nozick at the very beginning of my essay? My response to Friedman’s defense should be obvious. When basic needs are at stake, the poor can have a claim of noninterference against the rich, and poor Robinson Crusoes can have a claim of noninterference against rich Robinson Crusoes. My response to Nozick’s defense of libertarianism is that the inequalities of income generated in his example would be objectionable only if they deprived people of something to which they had a right, such as welfare. And whether people are so deprived depends on to what uses the Wilt Chamberlains or Michael Jordans of the world put their greater income. Thus, it is perfectly conceivable that those who have legitimately acquired greater income may use it in ways that do not violate the rights of others.

the poor from rightfully appropriating (some part of) their surplus goods and resources. So, in order to ensure that they will not be engaging in such wrongful actions, it will be incumbent on them to set up institutions guaranteeing adequate positive welfare rights for the poor. Only then will they be able to use legitimately any remaining surplus possessions to meet their own nonbasic needs. Furthermore, in the absence of adequate positive welfare rights, the poor, either acting by themselves or through their allies or agents, would have some discretion in determining when and how to exercise their negative welfare rights.<sup>36</sup> In order not to be subject to that discretion, libertarians will tend to favor the only morally legitimate way of preventing the exercise of such rights: they will set up institutions guaranteeing adequate positive welfare rights that will then take precedence over the exercise of negative welfare rights. For these reasons, recognizing the negative welfare rights of the poor will ultimately lead libertarians to endorse the same sort of welfare institutions favored by welfare liberals.<sup>37</sup>

36 When the poor are acting collectively in conjunction with their agents and allies to exercise their negative welfare rights, they will want, in turn, to institute adequate positive welfare rights to secure a proper distribution of the goods and resources they are acquiring.

37 It is important to see how moral and pragmatic considerations are combined in this argument from negative welfare rights to positive welfare rights, as this will become particularly relevant when we turn to a consideration of distant peoples and future generations. What needs to be seen is that the moral consideration is primary and the pragmatic consideration secondary. The moral consideration is that, until positive welfare rights for the poor are guaranteed, any use by the rich of their surplus possessions to meet their nonbasic needs is likely to violate the negative welfare rights of the poor by preventing them from appropriating (some part of) the surplus goods and resources of the rich. The pragmatic consideration is that, in the absence of positive welfare rights, the rich would have to put up with the discretion of the poor, either acting by themselves or through their allies or agents, in choosing when and how to exercise their negative welfare rights.

Now obviously peoples who are separated from the rich by significant distances will be able to exercise their negative welfare rights only either by negotiating the distances involved or by having allies or agents in the right place, willing to act on their behalf. And with respect to future generations, their rights can be exercised only if they too have allies and agents in the right place and time, willing to act on their behalf. So unless distant peoples