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EGALITARIAN JUSTICE, LEFT LIBERTARIANISM AND THE MARKET 1

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ABSTRACT

Three types of justification of the market feature in liberal-egalitarian and in left-libertarian conceptions of justice. One is present in Rawls's conception, another in Dworkin's, and a third one in Steiner's, jointly with one he shares with Dworkin. I shall briefly substantiate these exegetical claims and indicate how they shed light on the convergence between Steiner's left libertarianism and my own brand of liberal egalitarianism, against both Rawls and Dworkin, on the justification of an unconditional basic income.

The market mechanism consists of a number of buyers and a number of sellers interacting with one another in such a way that goods and services get exchanged at some price. It is endorsed, as a matter of justice, by all libertarians, including left libertarians such as Hillel Steiner. It also seems to be condoned by all liberal-egalitarian conceptions of justice, i.e. all conceptions that try to combine a commitment to equal respect for the diverse conceptions of the good life to be found in a pluralistic society and a commitment to substantive equality in whatever makes our lives better lives. Why? The answers turn out to vary and, for a subset of them only, to overlap with one of two answers to be found in left. libertarianism.

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1. RAWLS

Take first Rawls's theory. It interprets substantive equality in a lax, efficiency-sensitive way, in the sense that it allows some to have more than others because narrowing the gap would involve an unreasonable cost. The difference principle interprets this "unreasonable cost" as a worsening of the situation of the worst off. If making the expectations associated with the various social positions less unequal would result in making the worst social position even worse — whether or not it would be occupied by the same people —, then more equality would come at an unreasonable cost, and the fact that the less fortunate have less valuable opportunities than the more fortunate is justified by the difference principle. Does this entail an endorsement of the market?

It does on the empirical assumption that the use of markets is so efficient, as regards both the allocation and generation of resources, that the index of social and economic advantages sustainably associated with the worst social position under the best feasible market arrangement is higher than under any arrangement that makes no use of the market. This is a purely instrumental, contingent and highly conditional endorsement of the market economy. It is logically consistent with the possibility that countless market-based economic arrangements are less just than countless non-market-based arrangements. Moreover, the best market-based arrangement — some version of Rawls's "property-owning democracy" — is bound to involve a tight regulation of the market, e.g. by tax, environmental and labour law, and possibly a partial or total insulation of some sectors of activity — security, education, health care, banking, media ? — from the grip of the market.

Is there no deeper Rawlsian justification for the market? One suggestion that there may be such a justification rests on the role the difference principle gives to income and wealth. What could income and wealth mean in the absence of markets on which to use them? This second connection is real, but weak. Along with the other social and economic advantages that feature in the index used by the difference principle — powers and prerogatives, and leisure time —, income and wealth have been picked because they are primary goods, i.e., in Rawls's initial definition, "things that every rational man is presumed to want" (1971: 62, 92) and, in his later definition, "what persons need in their status as free and equal citizens, and as normal and fully cooperating members of society over a complete life". (TJ2, xiii). Given the role income and wealth are thereby given, nothing forces us to interpret them as purchasing power on a market. Instead of being accessible as commodities, the goods we need as rational people or as free and equal citizens could conceivably be made available by some public agency, and still be

incorporated into the index that aggregates the lifetime advantages associated with each social position. Working out such an index is no doubt greatly facilitated if income and wealth can be expressed as purchasing power, but no conceptual relationship to the market is presupposed.

A third connection between Rawls's conception and the market mechanism is suggested by his a priori rejection of central planning as a just social regime, in sharp contrast with the sympathy he expresses for "liberal socialism", along with the form of capitalism he calls "property-owning democracy". Central planning and liberal socialism have in common that the means of production are publicly owned, and hence out of market reach. The key difference is that liberal socialism relies on a labour market, whereas central planning has to use public authority to allocate labour, and thereby violates the workers' freedom of occupational choice. Can it not be said, in this light, that the liberty constraint, rather than sensitivity to efficiency considerations, turns reliance on the market, at any rate for labour services, into a necessary feature of a just Rawlsian society? Not quite.

For it is possible to imagine a socialist society which neither curtails the workers' freedom of occupational choice nor steers their choices through the use of differentiated market wage rates. But it would simply be so inefficient that it is unlikely to be sustainable, let alone to beat liberal socialism or property-owning democracy by the standards of the difference principle. In other words, the absence of a labour market does not entail a violation of the liberty constraint but creates a dilemma between such a violation and making the worst off dramatically worse off. Consequently, this further suggestion of a deeper link between Rawlsian justice and the market fails just as much as the previous one. Whether and when the market is justified from a Rawlsian perspective is a contingent instrumental matter fully captured by the efficiency-sensitivity of the difference principle. The same cannot be said of Dworkin's theory of distributive justice, to which we now turn.

2. DWORKIN

Dworkin's theory of distributive justice is motivated by dissatisfaction with Rawls's theory on the ground that it is not egalitarian enough, not efficiency-sensitive enough, and not responsibility-sensitive enough. Rawls is not egalitarian enough, according to Dworkin (1981: 339), because his theory of distributive justice pays inappropriately little attention to the plight of the handicapped: some are simply excluded from consideration because they fall outside what Rawls calls the "normal range", and even the others are granted no specific compensation on

grounds of their handicap. At the same time, Rawls is not efficiency-sensitive enough, Dworkin claims, because gains, however small, for the worst off justify losses, however big, for everyone else (1981: 339-40). Thirdly, and most importantly in Dworkin's eyes, Rawls's theory is not responsibility-sensitive enough: it fails to pay appropriate attention to ambition (1981: 343-4). One might try to address each of these putative defects separately. What Dworkin proposes is an alternative theory of distributive justice that gets rid of all three in one sweep.

The core of his approach is captured by the conjunction of two "twin principles" (2000: 324, 340) which he now also refers to as the two "dimensions of dignity" (2006: 98, 103-4): "equal concern", or the idea that it is equally important to the political community that each person's life should go well, and "personal responsibility", or the idea that the fate of each person should be sensitive to their own choices. From these principles it follows that distributive justice consists in making people's share of resources "sensitive to their choices but insensitive to their circumstances" (2000: 322-23). To give these abstract demands a more precise expression, Dworkin uses two devices — a competitive auction and a hypothetical insurance scheme — which are meant to specify how the just distribution can remain ambition-sensitive while being made endowment-insensitive in the space of impersonal and personal resources, respectively. Or at least so it seems.

The first device requires us to imagine a situation in which a number of shipwrecked people arrive on a desert island. An auctioneer is put in charge of selling all the goods found on the island, each divided as finely as makes any sense. Each shipwreck survivor is endowed with an equal number of clamshells and instructed to use all of them, and nothing else, to bid publicly for these goods on the basis of all relevant information. The auction stops and the goods are distributed between the shipwrecked when each clamshell is committed and each good assigned to the highest bidder. The resulting allocation has three important properties. Firstly, it is *Pareto-optimal*: no reallocation of the goods can make someone better off without making someone else worse off. Secondly, it is *envy-free*: no one prefers anyone else's bundle of goods to her own. Thirdly and most importantly, the bundle allocated to each person can plausibly be interpreted as having the same *value* as the bundle allocated to any other, in the sense that its *opportunity cost* to others is the same. What the auction proposes is "that the true measure of the social resources devoted to the life of one person is fixed by asking how important that resource is for others" (1981: 288).

By thus making the amount of goods each receives responsive to how valuable they are to others, the auction can be said to make the distribution of the island's goods ambition-sensitive.

By giving each of the shipwrecked an equal number of clamshells, it can also be said to make the distribution endowment-insensitive. Or at least it could be if only impersonal resources mattered. But what people will be able to achieve with the goods they are allocated will also depend on their personal resources, their talents. Dworkin's most impressive achievement consists in offering a solution for this problem. The key idea is that the availability of insurance turns brute luck — which endowment-sensitivity requires us to neutralize — into option luck — the consequences of which ambition-sensitivity requires each of us to bear. Brute luck is unchosen, whereas option luck is the outcome of a voluntary gamble. Those who take such a gamble and lose have no claim against those who win. And those who choose to abstain are owed nothing by those who gamble and win, nor owe anything to those who gamble and lose (see 1981: 292-5).

In the first-best version of his hypothetical insurance scheme, Dworkin asks us to imagine that we each know the distribution of all talents and handicaps among the members of our society as well as our own preferences, including our risk aversion, and to specify how much we would insure under such circumstances for each possible risk if the probability of having any particular talent or handicap were the same for everyone, bearing in mind that the premiums to be paid if lucky will have to cover the indemnities to be received if unlucky, each weighted by the probabilities of the situations that trigger them (1981: 276-7). If it could be performed, this ingenious exercise would yield a set of person-specific vectors of lump-sum taxes and transfers, each corresponding to a possible endowment in personal resources of the person concerned. However, it involves a frightening amount of intellectual gymnastics, and moreover requires information that is unavoidably unavailable and, even it were available to some people, could not be expected to be truthfully revealed.

A first problem stems from the causal relationship between endowments and preferences. Can we make any sense of a thought experiment that requires us to abstract from our endowments while retaining preferences which we would not have had, had it not been for these endowments? Secondly, there is an unavoidable trade off between the specifiability of desirability and the specifiability of probability. For us to be able to determine how attractive or unattractive we would find a particular endowment of personal resources, the nomenclature of endowments needs to be pretty fine-grained. But the more fine-grained, the more difficult it is to assign probabilities to them. Thirdly, there is a formidable moral hazard problem. Even supposing people were able to determine the desirability, given their preferences, of all possible endowments, how can one expect them to honestly reveal these preferences? Is it not precisely against the absence of the talents they actually lack that they would say they would have insured?

Dworkin is aware of these difficulties and therefore falls back on “what level of insurance of different kinds we can safely assume that most reasonable people would have bought if the wealth of the community had been equally divided and if, though everyone knew the overall odds of different forms of bad luck, no one had any reason to think that he himself had already had that bad luck or had better or worse odds of suffering it than anyone else” (2006: 115-116). The resulting rough approximation, Dworkin conjectures, will be a tax-funded scheme covering a number of specific risks. What sort of taxation? A progressive income tax rather than differentiated lump sum taxes on endowments, because of the difficulty of identifying and assessing the value of a person’s talents (see 1981: 325-326, 2002:126-9). Which specific risks? Mainly “ordinary handicaps”, such as blindness or deafness, with a level of premium and indemnity fixed by the average person (1981: 277-279), and the lack of sufficient skills to earn some minimum level of income no lower than the community’s poverty line (2000: 335-8).

This is what Dworkin’s hypothetical insurance scheme leads to as a rough practical approximation. But the insurance scheme, as understood so far, is meant to make the just distribution endowment-sensitive only as regards personal resources. As regards impersonal resources, it seems that it is the auction that should guide us. If this is right, the equal distribution of clamshells among shipwreck survivors suggests that Dworkin should favour a 100% tax on all gifts and bequests. However, he resists this implication, on the ground that it would amount to severely restricting the use people could make of their possessions: they could freely consume what they have but would be banned from giving it to others. In his original article, Dworkin cautiously left aside “the troublesome issue of bequest” (1981: 334-5). When returning to the issue much later, he made a very different proposal. It is not the auction but a second, distinct hypothetical insurance scheme that should guide our effort to achieve insensitivity to impersonal endowments: “we can imagine guardians contracting for insurance against their charges’ having the bad luck to be born to parents who can give or will leave them relatively little.” (2000: 347-8). This modification is subsequently corrected, when Dworkin proposes “a different (and now I think better) description of gift and inheritance tax as insurance premium. On this different account, such taxes fall not on the donor, as my discussion assumed, but on the recipient of the gift or bequest.” (2004: 353).

The upshot of this revision is that endowment-sensitivity is now achieved through a single hypothetical insurance scheme, with gift and inheritance lumped together with talents and handicaps among the dimensions of good and bad brute luck, to be transformed into option luck by the insurance scheme. In the first-best version of this scheme, we are asked to imagine all

possible combinations of personal and impersonal endowments with their associated probabilities and to work out how high a premium we would be willing to pay or how high an indemnity we would want to receive in each of these possible situations, on the assumption that we have the same probability as anyone else to be in each of them, and under the constraint that the premiums must probabilistically cover the indemnities.

Does this mean that the auction has no role left to play? Not at all. The auction is still there. But instead of arriving on the island with nothing that distinguishes them from one another, the settlers are now supposed to land each with a bundle of personal and impersonal resources, i.e. the endowments they owe to genetics and upbringing, to gifts and bequests. In this less simplified scenario, equality demands that the clamshells should be distributed not in equal amounts, but in the way determined by the hypothetical insurance. Those who, in their own judgement, regard themselves lucky will owe some amount of clamshells in tax. Those who regard themselves unlucky will be owed some amount of clamshells in subsidy.

The point of the auction parable is then simply to indicate what amount of goods it is fair that these clamshells should command, bearing in mind that the auction should now also concern the goods produced and the services offered by the settlers. The general equilibrium price structure that the auction is meant to elicit will determine how much each will be able to consume of the goods she desires, not only in the light of how scarce the initial supply of these goods is and of how widely and intensely the taste for them is shared, but also in the light of how much the labour each supplies will be valued by the auction, given the type and amount of labour others are able and willing to supply. If among two goods you could consume one uses less valuable resources than another (given how scarce they are and how many people want goods produced out of them), it is fair — not merely efficient — that you should have less of the latter than of the former. If among two jobs you could do, one produces more valuable resources than another (given the direct and indirect demand for them), it is fair — not only efficient — that you should be paid less for doing the latter than for doing the former.

The role of the auction parable, in other words, is not to indicate how a just distribution must be made insensitive to impersonal endowments. It is rather to express the central role assigned to the market in the specification of the metric of justice. From his earliest formulation, Dworkin states boldly that the idea of a market must be at centre of any attractive conception of equality of resources (1981: 284). Most explicitly: “On my view a market in goods and services is indispensable to justice because only a market can measure what one person has taken for himself by identifying the opportunity cost to others of his having it, so only a market can allow people

who enjoy a fair distribution of resources to preserve that fairness through their later decisions of occupation, investment, and consumption.” (Dworkin 2004: 342). Both consumption and production choices are unequally expensive to society and a responsibility-sensitive conception of justice must take this into account: “An efficient market for investment, labor and goods works as a kind of auction in which the cost to someone of what he consumes, by way of goods and leisure, and the value of what he adds, through his productive labor or decisions, is fixed by the amount his use of some resource costs others, or his contributions benefit them, in each case measured by their willingness to pay for it.” (Dworkin 1983: 207).

For this reason, Dworkin, unlike Rawls, objects to socialism as a matter of principle, not only as a matter of empirical contingency. Whereas his principle of equal concern is perfectly compatible with a centrally planned economy, his principle of personal responsibility is not: “A socialist society, for example, might assign jobs, fix wages and provide housing, health care, and other benefits in such a way that everyone has a roughly equal standard of living; in that way it might hope to meet the requirements of equal concern without relying on the taxation and redistribution of wealth as an important weapon. But a socialist society whose economy was so heavily controlled by collective decisions could not satisfy the further requirement that it respect personal responsibility. A community can respect that requirement only if it leaves its citizens very largely free to make their own decisions about work, leisure, investment and consumption, and only if it leaves fixing prices and wages very largely to market forces.” (Dworkin 2006:106)

Capitalism’s actual markets are of course far from perfect revealers of opportunity costs: they frequently operate under highly imperfect information, under monopolistic conditions, and in the presence of a wide variety of positive and negative externalities. But this should not worry Dworkin too much. No perfect fit can be expected anyway in a technological, economic and cultural context that is constantly changing. Markets need to be regulated to keep monopolies under check and to ensure access to relevant information. And market prices need to be vigorously corrected in order to better approximate true costs through the internalization of externalities. The result will unavoidably be messy, but the use of markets is still the best possible way of making people pay and be paid in such a way that they bear responsibility for their preferences.

This justification for the market is nowhere to be found in Rawls. And this is precisely at the core of Dworkin’s critique: Rawls fails to take personal responsibility seriously. By virtue of what the auction parable is meant to convey, the use of market prices as proxies for opportunity costs makes the very notion of equal endowments responsibility-sensitive by making people bear

responsibility for the more or less expensive preferences they have and choices they make both as consumers and as producers. In particular, those who choose an unproductive way of life should pay the price of this choice by being denied an income. In contrast to what he takes to be to Rawls's view, those who opt for "idleness" cannot do so at the expense of the "hard-working middle classes" (2000: 330-1). Rawls's conception of distributive justice, he claims, is unfairly soft on those who "prefer to comb beaches" (2006: 104).

By contrast, Rawls's more contingent case for the market on grounds of efficiency is totally absent in Dworkin's approach. This is not because Dworkin does not care about efficiency. On the contrary, he considers that Rawls's maximin criterion, as used in his difference principle, countenances some unreasonable costs, i.e. does not take efficiency seriously enough. How egalitarian ex post can the distribution that emerges from the insurance scheme be expected to be? Suppose first that only income matters to people. Risk aversion in the mild sense entailed by the diminishing marginal utility of income will lead to redistribution from situations with high earning power (stemming from personal and impersonal endowments) to situations with low earning power. If real-world redistribution were costless, hypothetical insurance would lead to equal earning power. But administration costs and moral hazard make the real-life redistributive bucket leaky. Depending on how leaky it is, expected-utility maximization will fall short, indeed far short of equalizing earning power for each under all circumstances, i.e. irrespective of the combination of personal and impersonal resources each happens to be endowed with. If we now suppose that other things than income matter to people — for example, the pleasure they take in their work or other aspects of life irreducible to consumption — and that they do so to different extents for different people, deviation from equal earning power can obviously be expected to be even more pronounced. Consequently, from the standpoint defined by Dworkin's hypothetical insurance — in contrast to that defined by Rawls's difference principle —, inequalities in earning power that could be durably reduced in order to benefit the worst off can nonetheless be just: reducing them would involve an "unreasonable cost". The best real-life approximation of Dworkin's scheme can therefore safely be expected to endorse redistribution from the better off to the worse off on a scale more comparable to what a utilitarian would advocate than to what some sustainable maximin criterion would require.

In this sense, it could be said that Dworkin cares for efficiency more than Rawls since he is willing to diverge further from an equal distribution for the sake of a greater average benefit. But this has nothing to do with the reason why the market is essential for Dworkin. The question of the market is settled when efficiency considerations are allowed in. If it turned out that

socialism was economically more efficient than capitalism, this would provide a relevant case against the market in a Rawlsian framework, but not in a Dworkinian one. For Dworkin, the market is needed because it provides a responsibility-sensitive metric of resources, not because it is needed to maximize the resources available for egalitarian redistribution.

3. STEINER

Let us now turn from responsibility-sensitive egalitarianism to so-called left libertarianism, as best exemplified by Hillel Steiner's work. The point of departure is radically different. For egalitarians, the fundamental question is how a society's rules — including the structure of property rights — are to be shaped so that they can be justified to all the people expected to uphold them regarded as equals. For libertarians, by contrast, the fundamental question is how a society's rules are to be shaped so that they can respect and protect a system of individual human rights, including property rights, supposed to be given in advance.

Any form of libertarianism, so characterized, can therefore be said to propose a historical, or backward-looking, or purely procedural, or entitlement conception of justice. But this strong sense of "entitlement" must be sharply distinguished from a weaker sense in which Rawls's and Dworkin's theory also become entitlement theories. On any entitlement conception in this weaker sense, a state of affairs can only be assessed as being just or unjust in the light of how it came about, more specifically by examining whether the process that led to it respected or violated the rules that define a just social structure. Whether a price being paid for a particular good is "just", for example, cannot be determined by just looking at the good, the amount of currency, the buyer and the seller. Rather, any price is "just" provided the transactors act within the limits of the property rights they hold by virtue of a just social arrangement. The distinction between strong entitlement theories and egalitarian theories which are entitlement theories only in the weaker sense relates to the question of what makes a social arrangement just, as opposed to what makes a particular transaction or situation just. ²

This difference leads to a justification of the market fundamentally different from the two discussed so far. Since private property rights over external objects are among the fundamental rights which libertarians believe a just arrangement consist in protecting, markets, indeed capitalism, i.e. markets for means of production and the use of labour power, will arise — and

² See van der Veen & Van Parijs (1985) for a clarification and further illustration of the distinction, partly inspired by Hillel Steiner's work and fully consistent with his recent discussion of the notion of a "just price" common to all entitlement theories of justice, weak or strong (Steiner 2008).

persist — spontaneously out of individual’s wishes to trade what they possess and produce for their mutual benefit. Consequently, whereas capitalism is necessarily condoned from a libertarian perspective, socialism, or the public ownership of the means of production, is necessarily condemned. Libertarians may also tend to believe that capitalism is more efficient than socialism, and that this fact has something to do with why it arises and persists spontaneously. But this is not what justifies capitalism in their eyes. Even if socialism turned out to be more efficient than capitalism, as some libertarians used to believe, capitalism would still be required by justice, because capitalism alone is consistent with respect for people’s fundamental rights.³ For egalitarians, this is of course nonsense: the structure of property rights is part of the output of equality-guided reasoning about just institutions, not part of the parameters within which this reasoning must operate. For efficiency-sensitive egalitarians à la Rawls, however, the social arrangement which this reasoning will lead to is most likely to ascribe a very significant role to the market, precisely because of the efficiency virtues that are irrelevant from a libertarian standpoint.

There is, however, a third type of justification of the market which is common to left libertarianism à la Steiner and to responsibility-sensitive egalitarianism à la Dworkin. Whereas libertarians agree on the right of each private owner to use his property as he or she wishes, they sharply disagree on how one can become the legitimate owner of objects, typically natural resources, that previously belonged to no one. Right-wing libertarians adopt the principle “first come first served” or, somewhat more mildly, some “Lockean proviso” that stipulates that no one should be made worse off than he or she would have been in a state of the world without any private appropriation. Hillel Steiner, by contrast, interprets Locke’s “common ownership of the earth” as an equal right to all natural resources, and this is precisely what makes him a left libertarian. The best operationalization of this equal right is a right to an equal share in the value of the natural resources. But how is this value to be assessed?

“Market value is thought to be both impartial and relevant because it imposes no canonical commensuration, either on the various qualities of a single object or on objects of different kinds. Rather, through the interplay of supply and demand, it conflates and subsumes the different commensurations of respective market participants and of nonparticipants, assuming the latter are not prevented from participating.” (Steiner 1987: 67)

This way of assessing the value of natural resources was put forward by Herbert Spencer and Henry George in the 19th century. Dissociating the value of unimproved land from the value

³ See e.g. Wallich (1960).

of improvements raises a number of tricky issues which Hillel Steiner recognizes. As stressed by David Miller (1999: 191-7), they are made even trickier if one recognizes (as Steiner does, while Miller does not) that our culturally diverse world provides the scale appropriate for discussions of distributive justice. For the boundaries between what can be and cannot be produced, sold or used for profit can vary considerably from one culture to another, and this will unavoidably affect the market value of different types of natural resources. Nonetheless, Steiner assumes that “proposals like those of Spencer and George — to distribute equally the pure rent of natural resources — are based on sufficiently relevant and impartial commensuration mechanisms for implementing the Locke solution.” (Steiner 1987: 68). In his left libertarian conception of justice, therefore, “each rightholder, when he or she becomes a rightholder, is entitled to an equal portion of natural resource value” (ibid., 70). Moreover, it is not just nature that is commonly owned, but also the goods left without owner by the death of their owner. Hence, the stock of goods up for this sort of assessment and equal distribution can be handsomely expanded: unlike gifts *inter vivos*, bequests can and must be taxed at 100% of their market value (Steiner 1992).

It is important to stress the big difference between the two roles which left libertarians thereby give to the market and the sharply divergent attitudes they correspondingly adopt to market prices. In the context of the first role, the just price is left completely undetermined: it simply is the amount of some currency which one agent voluntarily pays in order to acquire some good or enjoy some service while another agent voluntarily provides that good or service in exchange for receiving that amount. The price may have been settled in the light of very imperfect information, or on the background of a strongly monopolistic situation, or it may take no account of major externalities. Libertarians, left and right, do not care, providing both agents are the legitimate owners of whatever they exchange and do not violate anyone else’s property rights. By contrast, the market prices to which appeal is being made by left libertarians in order to determine what counts as an equal distribution of the value of natural resources — the market’s second role — cannot be approached in such relaxed fashion. Quite analogously to what is required in Dworkin’s auction, they must reflect the true opportunity cost to others of the relevant goods being appropriated by some, and this must be based on a fully informed aggregation of supply and demand under appropriate conditions.

There is more than just a conceptual convergence here. Taken by itself, as we saw, Dworkin’s auction seemed to imply an equal distribution of the market value of all donations and bequests, just as Steiner’s left libertarian approach to distributive justice implies an equal distribution of the market value of all natural resources, possibly supplemented by the value of

bequests. The left-libertarian interpretation of the Lockean common ownership of previously unowned resources amounts to giving each an equal number of clamshells with entitlements fixed by the competitive market prices of those resources. Whether Dworkin's egalitarian auction, taken on its own, or Steiner's egalitarian appropriation of unowned objects leads to a larger part of social or global income being distributed on an equal basis depends on the aggregate equilibrium market value of natural resources and gifts, respectively.

As we saw, however, there is not much point in speculating on this issue, since Dworkin has now (sensibly) reformulated his approach in such a way that the distribution of both impersonal and personal resources should be handled by his hypothetical insurance scheme. A hard, straightforward justification of an unconditional income at a level determined by correct market prices is therefore unavailable to (emended) Dworkin, even though, like Rawls, he may end up justifying it as part of the just institutional package on the basis of contingent factual considerations that relate, in particular, to the importance the "average person" ascribes to leisure versus income.⁴ Left libertarians, instead, provide such a justification, be it at a relatively low level that depends on the relative scarcity of natural resources. Unlike right libertarians and unlike egalitarians like Rawls and Dworkin, they therefore guarantee to every human being a small unconditional protection against having to sell their labour power to the market.

4. REAL LIBERTARIANISM

The account of distributive justice I proposed in *Real Freedom for All* (1995) is not libertarian, nor therefore "left libertarian" in the sense used so far. Admittedly, the label I proposed myself in order to challenge the right's usurpation of freedom — "real libertarianism" — suggested otherwise, and some key aspects of the substance of what I propose can justify classification under some more broadly defined "left libertarian" umbrella (see Vallentyne & Steiner eds. 2000, Reeve & Williams eds. 2003). Instead, my "real libertarianism" is yet another liberal-egalitarian conception of distributive justice. Yet, it seems to converge with Steiner's left libertarianism by giving market prices the same roles as he does and by ending up providing a justification for an equal unconditional income as hard and straightforward as his, be it at a significantly higher level. How is this possible? Ultimately because it combines the instrumental, efficiency-guided attitude to market institutions to be found in Rawls with the recognition of the

⁴ See my discussion of Rawls on this issue in Van Parijs (2002: 218-22). Beyond Dworkin's reluctant pragmatic concessions (1983: 208; 2000: 309), a similar argument can be made on the basis of his most recent formulations in terms of an expanded insurance scheme.

role the market could play for the sake of responsibility-sensitive evaluation, as exemplified by Dworkin and Steiner.

On the background of the earlier discussion, this point can most conveniently be spelled out by returning to Dworkin's theory. As noted above, Dworkin initially seemed to offer a dual conception of distributive justice, with the competitive auction covering impersonal resources, and the hypothetical insurance scheme covering personal resources. He subsequently moved the auction to the background and subjected both personal and impersonal resources to the insurance device. The approach developed in *Real Freedom for All* could be characterized as doing exactly the opposite. It amounts to expanding dramatically the scope of the auction, while relegating a functional analogue of the insurance scheme to a shrunk residual role. What motivated this move? Fundamentally the conviction that the opportunities we are given in life cannot adequately be conceptualized, as they are by Dworkin and in most liberal-egalitarian approaches to distributive justice (though not Rawls's), in terms of our endowments in personal and impersonal resources.

The underlying intuition is captured in emaciated format by so-called efficiency-wage theories of involuntary unemployment, as developed by Joseph Stiglitz, George Akerlof, Samuel Bowles and others. Through a number of distinct mechanisms, workers' productivity can be increased as a result of their employers paying them more than what they could get away with. The outcome is that the profit-maximizing wage exceeds the market-clearing wage and hence that involuntary unemployment will persist at equilibrium — in contrast to so-called “Walrasian” models, where productivity is unresponsive to the pay level and where the equilibrium wage is therefore, of necessity, the market-clearing wage. Even in the most perfectly competitive circumstances — full information, costless entry and exit, no wage legislation or collective bargaining, etc. —, it thus appears, people endowed with exactly the same skills can be expected to be given very unequal opportunities.

What is captured in the highly purified air of these theoretical models is only the tiny and tidy tip of a massive and messy iceberg. In actual life, the opportunities we enjoy are fashioned in complex, largely unpredictable ways by the interaction of our genetic features with countless circumstances, from the smiles of our parents to the presence of older siblings, from our happening to have a congenial primary school teacher or imaginative business partner to our happening to have learned the right language or our getting a tip for the right job at the right time. Once we bear this fully in mind, it no longer makes much sense to try to imagine, as we are asked in Dworkin's first-best approach, all possible endowments of personal and impersonal resources we might have had and to determine how much we would have insured against having those we

regard as unlucky. The alternative is to look directly at jobs and other market niches as incorporating very unequal gifts to which we are given very unequal access by a messy combination of factors. It is these gifts, and not only the much smaller amount that takes the form of donations and bequests that should be made the object of a Dworkin-like auction. This is the key distinguishing feature of the approach proposed in *Real Freedom for All*.

Needless to say, this assimilation of jobs to gifts is not uncontroversial. Is it not undermined, for example, by the fact that one generally needs to do something in order to get a job and keep it? This undeniable fact does not create a fundamental difference with donations or bequests. Attending politely your aunt's boring tea parties may be one of the necessary conditions for you not to get forgotten in her will. But this investment of yours does not make you "deserve" the whole of the big chunk of wealth possessed by a person to whom you happened to be related. Similarly, the fact that one needs to go to the office every morning and busy oneself once there does not make one "deserve" the whole of the salary one is able to earn by virtue of a combination of circumstances most of which are no less arbitrary than the fact that one of our parents happens to have a rich sister. In Dworkinian parlance, our ambition-driven choices and efforts, including those involving option luck, all operate on the background of massive brute luck. Whatever it was in the auction device that fed the presumption for taxing donations and bequests should be resolutely extended to the taxation of jobs, with the proceeds being distributed just as equally as Dworkin's clamshells. Moreover, this should not be misunderstood as an equalization of outcomes — a misunderstanding both as tempting and as serious here as it is in the case of Rawls's difference principle — but as an equalization of opportunities. What is being equalized is what people are given, not what they achieve with what they are given.

Is there no risk of overshooting the mark? How can one be sure that only the "gift" component of jobs is taxed away? In the efficiency-sensitive egalitarian perspective for which *Real Freedom for All* proposes to settle, this is quite simple: just tax so as to sustainably maximize the tax yield, using nothing but predictable taxation, fully anticipated by all economic agents. More explicitly, taking efficiency considerations into account, as an efficiency-sensitive egalitarianism recommends we do, amounts to endorsing inequalities that are more than compensation for productive efforts — typically of greater magnitude than sipping the occasional cup of tea with one's aunt. It endorses higher rewards not only for those who happen to be endowed with more valuable talents, but also, for example, for those who happened to take advantage of unevenly spread information in an economy in permanent flux, or for those who are simply given more than their reservation wage because this is expected to boost their

productivity. Trying to fully capture the gift component of jobs would involve an “unreasonable” cost in the “Rawlsian” sense of worsening the situation of the worst off. In the gift framework I propose, an efficiency-sensitive egalitarianism requires that the gift granted to those with the most modest gift should be as high as possible. How are the sizes of the gifts to be assessed?

This is where I side with Dworkin and Steiner: by using the metric of opportunity costs, i.e. in terms of the cost to others of what the gift commands, itself approximated by appropriate market prices. If and only if this metric is adopted, we get a strong presumption — in the context of a discrimination-free market economy regulated in such a way that prices track opportunity costs — in favour of a universal cash income unconditionally granted to all and paid for out of the predictable taxation of all market activities. At what level? At the highest sustainable one, my efficiency-sensitive egalitarianism recommends. This means that the tax bases — earnings, capital income, transactions, consumption, value added, etc. — as well as the tax rates and profiles — linear, progressive, regressive or some combination — must be chosen so as to sustainably maximize the yield of the tax, under the constraint that it be predictable. Predictability is essential in order to prevent the institutional structure (as distinct from extraneous option luck) from taking from an economic agent more than the value of the gift incorporated in his or her activity, and hence in order to secure that, subject to markets functioning properly, everyone gets at least the value of the universal basic income.

Should an equal amount be given to everyone in one go at a given age or should the amount be spread over people’s lives, possibly with a lower level in childhood and a higher level in old age? For mildly paternalistic reasons, *Real Freedom for All* favours the latter, just as it favours giving part of the grant in kind, in particular in the form of free or heavily subsidized education and health care (see Van Parijs 1995: ch.2). How much and in what form? A thought experiment behind a veil of ignorance must provide guidelines for answering such questions: “Supposing we had nothing but the universal basic grant and knew nothing about our life expectancy, health state and risks, how would we want it to be spread over our lifetimes and how much would we want ear-marked for specific expenditures?”

To this I added, in *Real Freedom for All*, a constraint of undominated diversity: justice requires that no particular person’s comprehensive (i.e. personal and impersonal) endowment should be unanimously found worse than the comprehensive endowment of any other person. This concession to the mainstream endowment-based approach I felt was necessary to deal with egregious cases of handicaps which generate disadvantages only very partially captured by lesser access to jobs and other market opportunities. But I now believe this addition to be inessential.

Once it is recognized that distributive justice must be defined in the first instance at the global level⁵, the sort of thought experiment required to apply the criterion of undominated diversity becomes even trickier than it is in a domestic context, and even less likely to firmly justify significant transfers. To deal with non-pecuniary handicaps, one might as well rely on the nested veil-of-ignorance exercise mentioned above as a guide to devoting part of the universal grant to health care, bearing in mind that health care must be broadly construed as covering, for example, devices that facilitate the mobility of the blind or the disabled. Moreover, while the grant-based redistribution can and must be organized on the largest possible scale, this thought experiment can best be organized at a decentralized level so as to be sensitive to local circumstances and preferences. Thus, veil-of-ignorance exercises still have a role to play, but they are relegated to a subordinate function. In sharp contrast with the later Dworkin, an equal, or at least a fair distribution of all-purpose clamshells is the basic device. Fundamentally, justice is achieved by guaranteeing to every human being as high a minimal claim on the world's resources as is sustainable, in the form of a universal and unconditional grant presumptively given in cash.

In this light, the core of what *Real Freedom for All* proposed can be expressed as an articulation of four elements. Firstly, there is the ethical view, shared with Dworkin and Steiner, that the fair sharing of goods to which no one has a prior claim — such as those found by the shipwreck's survivors on (the early) Dworkin's island or the natural resources on (the left side of) Steiner's originally unowned earth, or scarce jobs in my non-Walrasian economy — requires valuation by suitable markets. Making people pay the true cost of what they appropriate is not only efficient but fair. Secondly, there is, shared with Rawls, the interpretation of efficiency-sensitive egalitarianism in terms of sustainable maximin. Equalization involves an unreasonable cost when it makes the worst off worse off. Thirdly, there is a stylized picture of society as a massive gift distribution machine, in contrast to Dworkin's community of unequally endowed individuals and Rawls's system of inter-linked social positions. It is these gifts that must be viewed as the substratum of people's opportunities. It is therefore their value that must be equalized across individuals, at any rate to the extent recommended by the efficiency-sensitive egalitarian maximin criterion. And fourthly, there is, reminiscent of Normal Daniel's (1985) or Ronald Dworkin's (2000: ch.8) approach to health care, a thought experiment about the concrete shape — lifetime profile, cash versus kind — which the highest sustainable basic grant should take.

⁵ See Van Parijs (2007).

These four elements combine to provide a theory of distributive justice, not a libertarian one like Steiner's relying on pre-institutionally given entitlements, but one expressing, like Dworkin's or Rawls's, a responsibility-sensitive, efficiency-sensitive conception of distributive justice. The key difference resides in the stylized picture of society which is needed to conceptualize inequalities and characterize justice. Dworkin opts for the mainstream perspective, shared by most of the economists and many of the philosophers who have been writing about distributive justice. The members of society are unequally endowed with talents, capacities, earning power, etc. and justice requires that inequalities in these internal endowments should be corrected through the distribution of external endowments. It is only in Walrasian general equilibrium, however, that internal and external endowments so defined exhaust the factors that determine people's life chances. In our messy real world, many other factors play a role that cannot be relegated to the margin as random noise. More than any specific feature, it is the inadequacy of this stylized picture that motivated my dissatisfaction with Dworkin's theory and other mainstream approaches.

Rawls proposed a radically different picture that does not suffer from this defect. People can settle in different social positions for all sorts of reasons, and people settled in the same social position achieve very different levels of the index of social and economic advantages over their lifetimes, also for all sorts of different reasons. However, the notion of social position is tricky. It works best in a society with a number of distinct stable occupations in which people tend to stay for most of their lives. To apply it worldwide (contrary to Rawls's own conception of world-level justice) and in a world in which people jump up and down from one position to another is not impossible. The Difference Principle simply asks us to focus on the index of social and economic advantages that can be expected by those spending their whole lives in the worst social position, as defined by the index. However, as soon as part-time work is involved, or interrupted careers, or long-term unemployment, we face head on the hard question of how to construct the metric in terms of which social positions are to be compared, within regimes and across regimes, in particular the question of how to weight the components of the index which tend to be inversely correlated, in particular income and leisure. The solution proposed by Rawls himself is biased against leisure, and any welfarist resolution is unacceptable to him.⁶

The alternative I propose avoids, like Rawls's, the mainstream reduction of opportunities to endowments. At the same time, it side-steps both the need for a nomenclature of social positions and the need to provide an unbiased index that would make them comparable. Instead I

⁶ See Van Parijs (1995: ch.4)

propose focusing on the gifts we all receive, each measured by its opportunity cost as approximated by market prices. Maximizing the value of the smallest gift is a way of maximizing the power to consume of those with the smallest such power, but also the power to choose the sort of life they want to live by broadening their choice of occupation. It has, it must be admitted, limitations of its own, in particular the fact that it leaves out of the grasp of distributive justice all those gifts we receive — including no doubt some of the most important to our lives, such as the love of those we love — which are not taxable themselves nor mainly a way of accessing positions which yield in turn a taxable income. ⁷ But perhaps this is just as well. Perhaps a conception of justice that boosts the market power of those with least market power will serve us well enough, and will arguably serve us ever better, compared to the alternatives discussed, as mobility grows, globalization deepens and the market widens and tightens its grip. Even so much better — who knows? — that Hillel Steiner may discover that his honest, rigorous, patient quest for reflective equilibrium has turned him into some sort of liberal-egalitarian.

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⁷ For further discussion of the dependency of my stylized picture of the world on the pervasiveness of the market, see especially Sturm & Dujmovits (2000) and my reply in Van Parijs (2001).

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