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JUSTICE REQUIRES EGALITARIAN ORGANIZATIONS

WHY PUBLIC INSTITUTIONS SHOULD PROMOTE WORKER COOPERATIVES

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RÉSUMÉ

J'argumente dans cette thèse qu'en regard des principes de justice libéraux égalitaires, les institutions publiques doivent promouvoir des organisations égalitaires comme les coopératives de travailleurs.

Dans la première partie, tout en adoptant le cadre général du libéralisme égalitaire, je tente de dissiper certaines ambiguïtés et de résoudre certains problèmes au sein de la théorie. Dans la deuxième partie, j'utilise ces modifications pour développer deux arguments démontrant que tout système tolérant des organisations inégalitaires échouera à corriger les inégalités injustes que celles-ci engendrent et échouera donc à réaliser une société juste. En particulier, l'État-Providence Capitaliste, *même dans sa version la plus forte*, est toujours insuffisant pour réaliser toutes les exigences de la justice.

Le premier argument consiste à démontrer qu'un État-Providence Capitaliste fort pourrait réussir à distribuer équitablement le revenu et le capital grâce à la redistribution fiscale, mais qu'il échouera à distribuer équitablement *tous* les autres biens premiers comme la protection contre la domination, les capacités servant l'autonomie, et le respect de soi. Le deuxième argument consiste à démontrer que les politiques redistributives devant corriger les inégalités injustes engendrées par les organisations inégalitaires ne sont pas *stables* à long terme. Si ces deux arguments sont corrects, il devient nécessaire de promouvoir des organisations égalitaires pour réaliser la justice.

Dans la troisième partie, j'applique ces arguments généraux à un cas spécifique : l'organisation de la production. J'argumente en faveur de politiques publiques concrètes faisant la promotion de formes spécifiques de coopératives de travailleurs car celles-ci tendent à engendrer moins d'inégalités. Mais mon argument s'applique aussi à d'autres organisations dans différents secteurs de l'économie comme la gestion des risques, la finance, la consommation, le logement, etc. La contribution de cette thèse consiste à justifier un Système d'organisations égalitaires où les institutions publiques feraient ce qui est nécessaire pour promouvoir des organisations égalitaires dans tous les secteurs de l'économie.

ABSTRACT

I argue in this thesis that liberal egalitarian principles of justice require public institutions to promote egalitarian organizations such as workers cooperatives.

In the first part, while adopting the general framework of liberal egalitarianism, I try to dissipate some ambiguities and to solve some problems within the theory. In the second part, I use these modifications to the theory to propose two arguments demonstrating that any system tolerating inegalitarian organizations will necessarily fail to correct all the unjust inequalities they create and thus fail to realize a fully just society. I demonstrate more specifically that Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize all the requirements of justice.

The first argument consists in demonstrating that a Strong Welfare State Capitalism may succeed in distributing income and capital fairly through taxation, but that it will fail to realize a just distribution of *all* other primary goods such as protection from domination, self-governing capacities, and self-respect. The second argument demonstrates that the redistributive policies supposed to correct unjust inequalities created by inegalitarian organizations are not *stable* over time. If these arguments are correct, it becomes necessary to promote egalitarian organizations to realize justice.

In the third part, I apply this general argument to one specific case: the organization of production. I argue in favor of concrete public policies promoting specific types of worker cooperatives because they tend to create less inequality. But my argument also applies to other organizations in various sectors of the economy such as risk management, finance, consumption, housing and so on. The contribution of this thesis is to justify a System of egalitarian organizations in which public institutions would do what is necessary to promote egalitarian organizations in all sectors of the economy.

On ne s'imagine Platon et Aristote qu'avec de grandes robes de pédants. C'était des gens honnêtes et, comme les autres, riant avec leurs amis; et quand ils se sont divertis à faire leurs *Lois* et leur *Politique*, ils l'ont fait en se jouant. C'était la partie la moins philosophe et la moins sérieuse de leur vie; la plus philosophe était de vivre simplement et tranquillement. S'ils ont écrit de politique, c'était comme pour régler un hôpital de fous; et s'ils ont fait semblant d'en parler comme d'une grande chose, c'est qu'ils savaient que les fous à qui ils parlaient pensaient être rois, ou empereurs. Ils entrent dans leurs principes pour modérer leur folie au moins mal qu'il se peut.

Blaise Pascal ([1670], Fr. 457) – *Pensées*

Introduction

For me, says Socrates, I am not in need of any further wealth. I am rich enough already, to be sure. But you, Critoboulos, you seem to be very poor and at times, by Zeus, I feel compassion for you. [...] for my property is amply sufficient to satisfy my needs, whereas you, considering the parade around you, and the reputation you need to live up to, would be barely well off, I take it, if what you have already were multiplied by three¹.

Xenophon – *Oeconomicus*

Rich is the one with few needs. This is the fundamental idea in Xenophon's *Oeconomicus* (4th century B-C)². Socrates owns almost nothing but argues that he is richer and more able to satisfy his needs than Critoboulos, a wealthy landowner. Critoboulos spends enormous amounts of money and always seeks to increase his wealth. He never has enough to satisfy his whims, he always depends on others, and he is always looking for the recognition of his fellow wealthy citizens. Therefore, he never feels satisfied. By contrast, Socrates has very few needs. The few resources that he has satisfy his needs. He even has enough to give to the ones around him. For him, being rich does not depend on the quantity of wealth we own. What matters is that our possessions meet our needs. To be rich, one needs to learn how to limit his needs, how to be satisfied with few. Moreover, someone who works well and has few personal needs can give more to others and contribute to the prosperity of the city.

There would be very little to add if all citizens adopted the way of life proposed by Xenophon and embodied by Socrates. Fraternal benevolence towards our fellow citizens and very simple rules of coordination would suffice to organize collective life and to distribute the benefits of social cooperation. In such a utopian society, the benefits could be distributed "from each according to their capacities, to each according to their needs"³. That day, we would live in a state of abundance and there would be no conflict of interests anymore. A theory of "justice" proposing the principles of fair distribution would be of little relevance because there would be no scarcity. One day, we might all develop frugal needs and fraternity towards one another, and most political problems would then disappear. But this day has not come yet.

¹ The text is originally in Ancient Greek. This is my translation from the French translation to English.

² Socrates had many disciples. Plato and Xenophon wrote dialogues involving Socrates. Xenophon's *Oeconomicus* is one of these dialogues (Dorion 2008: 263).

³ A communist society is beyond the circumstances of justice as it requires a state of abundance (Marx [1867]; Van Parijs & Arnsperger 2003: 46-48).

Today, pluralist societies are most of the time characterized by conflicts of values and interests, scarcity and sometimes violence. People disagree and often fight over how to organize collective life and distribute its advantages. This is why we need principles of justice and good government. But what could convince people to stop fighting to become the king of the jungle? Why would people want to solve these conflicts and accept principles of justice?

A theory of justice, setting the principles of good government and able to solve conflicts, is desirable for everyone because everyone shares at least the interest of preserving the benefits of cooperation. Indeed, societies are more or less successful attempts to organize cooperation in a mutually beneficial way. People need each other to live and produce goods and resources. There is no need, to imagine a hypothetical “state of nature”, as Thomas Hobbes, John Locke or Jean-Jacques Rousseau did, to realize that each of us would be nothing without the enormous advantages that we all get from social cooperation⁴. The family, division of labor, economic exchanges, education, language, technological innovation, accumulated material and human capital from previous generations, collective infrastructure (and so on...) are the origin of almost all of what we are able to produce⁵. Left alone in the forest, almost no one reading these lines would be able to grow basic food, let alone building a house or making a toaster. Our ability to develop our identity, our thoughts and to realize our values depends largely on the cooperation with others. This idea that men are nothing without others is so widespread that it found its way into major literary work. The poet John Donne puts it very simply: “No man is an island”. Our personal contribution, as honest and valuable as it may be, remains a drop in the ocean of advantages that we all get from social cooperation.

Preserving the advantages of cooperation is an important motivation for people to make political agreements about social rules⁶. Because everyone shares an interest in solving conflicts pacifically, it is rational to agree on some principles to organize collective work and to distribute its advantages in a way that preserves cooperation over time. John Rawls underlines this motivation in the very beginning of his *Theory of justice*:

Justice is the first virtue of social institutions [...]. although a society is a cooperative venture for mutual advantage, it is typically marked by a conflict as well as by an identity of interests. There is an identity of interests since social cooperation makes possible a better life for all than any would have if each were to live solely by his own efforts. There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share. A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an agreement on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation⁷.

Because of the plurality of values and interests in society, the principles of justice cannot be based on any God or any other particular and controversial moral conceptions of the good. One alternative left is a political agreement based on mutual advantage. But which principles can organize cooperation in a way that is acceptable by all and solves conflicts of values and interests? How to distribute the rights and duties, the burdens and advantages of social cooperation in a way that preserves its stability over time?

⁴ Hobbes [1651]; Locke [1689]; Rousseau [1755]

⁵ Rawls 1971: 3-4; Heath 2006: 313-345

⁶ This intuition is shared by philosophers such as Hobbes [1651], Locke [1689], Rawls (1971; 1993) and recently by economists such as Simon (2000), Stiglitz (2012) and Landais, Piketty & Saez (2011).

⁷ Rawls 1971: 3-4

1 – What is political philosophy?

Historical attempts to answer the question of justice and good government have not always been satisfying. Many authors from the classical period used to think that good government was based on the virtue of rulers. Today, most contemporary authors think, instead, that good government should be based on proper public institutions, checks and balances and sets of rights and duties in order to avoid dictatorships (even enlightened ones). In the 19th century, many people were confident in progress. Among them, some Marxists thought that the development of productive forces would lead naturally to a state of abundance and the abolition of classes. Today, people are probably more skeptical about that: it might be more complicated. After the fall of the Berlin wall, there were people to say that economic liberalism and globalization would transform all societies across the world into liberal democracies and that it was “the end of History”. Yet, today, we are compelled to observe that this has not happened and that the world is still torn apart by conflicts. It is our responsibility to put our work back on the loom and find the principles of justice and good government⁸.

John Rawls has proposed one of the most influential theories of justice of the last century, which will be at the center of this thesis. For Rawls, the first role of political philosophy is to provide a conceptual framework in order to think rationally about justice and good government. Political philosophy should help individuals with divergent and often conflicting views to find political agreements and when it is not possible, at least to limit the divergence so that mutually respectful and stable cooperation can be preserved. Political philosophy is not simply moral philosophy applied to political issues. Political philosophy is “political” in its method: it seeks political agreements about social life.

Political philosophy should, therefore, help to clarify democratic debates. We need such a conceptual framework because as I said, disagreements about values and interests, often inherited from different cultural traditions, create most social conflicts. Therefore, we need to take into account these disagreements in order to solve social problems pacifically. It is important to define important concepts such as freedom, equality, responsibility or efficiency and to explain how to use them to make accurate evaluations of public policies. Even factual arguments about the consequences of public policies only have a value if they refer to a normative evaluation of how “good” or “bad” these consequences are. Thinking clearly about justice and reaching political agreements between people with conflicting values and interest is crucial to preserve social cooperation over time and avoid instability and war.

For Rawls, political philosophy has at least three other roles. It contributes to the way citizens think of themselves, their role as citizens, and their political status. It also contributes to justify the structure of social institutions. And with the crucial input of empirical sciences, it also enables citizens to think about what the institutions of a just, democratic regime could be, in order to change them eventually, in the practical limits of political circumstances⁹.

John Rawls, probably because of his great intellectual honesty, is often very prudent when it comes to proposing institutional changes. Yet, the theory of justice he proposes points at some radical changes in the way our political and socio-economic institutions are organized¹⁰. This thesis is an attempt to pursue this difficult task of building a compelling liberal egalitarian theory of justice and proposing practical guidelines to realize a just society.

⁸ For a very short introduction to political philosophy, see: David Miller (2003: 1-18).

⁹ John Rawls proposes these four roles of political philosophy in *Justice as Fairness* (Rawls 2001: 1-5).

¹⁰ Rawls 2001: 135-140; O'Neill & Williamson 2012a: 2-4

2 – A few points about political philosophy and its method

Pragmatism in epistemology assumes that there is no such thing as “true” or “absolutely valuable” knowledge. There is only “useful” knowledge. The only source of value is thus the judgment that individuals make about which knowledge is useful to pursue their life. The only way to assess the value of human knowledge about natural or social phenomena is thus to evaluate how useful this knowledge is for our purposes in life. For instance, between two scientific theories, pragmatists would choose the one that is the most useful to explain natural or social events and to predict the effects of our manipulations. Similarly, for normative theories, there is an irreducible variety of individual or social norms. Common norms or social rules are always human constructions and can only be evaluated based on how useful they are in realizing our individual ends¹¹. Pragmatism being the most influential approach in American philosophy in the mid-20th century, it is not farfetched to believe that it has been influential in the development of a normative tradition like political liberalism.

Political liberalism is consistent with this view. I believe it is the most appropriate normative theory to think about justice and good government in contemporary societies. If everyone agreed about moral values or if there was no conflict of interests, it would be very simple. But this theory acknowledges that we live in pluralist societies in which people have different and often conflicting values and interests. We need to take seriously this challenge of political liberalism and find ways to bring people who disagree together. This is why principles of justice cannot be based on any particular moral conception. This theory also assumes that people share an interest in solving conflicts pacifically because they need the benefits of cooperation. In such a context, it is rational for everyone to want the freedom to pursue their conception of the good life, but it is also rational for them to make *political agreements* about how to distribute fairly the benefits of cooperation. They don’t need to agree on all aspects of their lives. They only need to solve conflicts by setting public institutions based on principles that all rational citizens could accept. Reaching an “overlapping consensus” in which, despite disagreements and conflicts about personal values, everyone can find reasons to make a political agreement about a subset of social rules, is the best way to secure the stability of social cooperation¹². Therefore, the task of political philosophy can be understood as being to anticipate rationally which principles would gain the support of all citizens in an ideal public debate. Political philosophy can propose arguments to build such an overlapping consensus.

Theories of justice thus need to propose a set of principles that would be acceptable by all in an overlapping consensus. These principles justify the choice of institutional arrangements and the distribution of burdens and advantages. Now, why would people value principles of justice? There are two main ways to answer this question. The first conception is often called *justice as mutual advantage*. I already sketched it above. It holds that everyone has reasons to value principles of justice because everyone benefits from social cooperation. Therefore, everyone shares an objective interest in the stability of social cooperation over time. This is why public principles of justice, meaning principles that are acceptable by all, are very useful for everyone’s ends because they are the best way to solve potential conflicts and to secure the stability of cooperation. This is also the reason why these principles should make sure to treat everyone in an impartial way. If the principles organizing social cooperation are not impartial, if they favor the values or interests of some over the ones of others, disadvantaged people would never agree with these principles and never abide by social rules. This would trigger conflicts and undermine the stability of cooperation over time.

¹¹ On pragmatism, see for instance: James [1909]

¹² Rawls (1971, 1993). On *political* political theory, see also: Waldron 2012

The second set of conceptions is often called *justice as impartiality*. These conceptions hold that there is a moral reason to value principles of justice because impartiality is valuable in itself. Partisans of these conceptions give an intrinsic moral value to impartiality. One problem with this view is that it is inconsistent with liberalism which pretends not to impose particular moral values or conceptions of the good. Another problem is that it is at odds with daily observations. In many conflicts, there are “tough crowds” which seem not to care about justice and impartiality. Arguments about their own advantage may be the only chance we get to convince “tough crowds” to respect principles of justice. For these two reasons, I am more sympathetic to the first conception of justice as mutual advantage but I will not take any stance on this issue in the thesis. Let’s simply say that there is an *overlapping consensus* between the partisans of both approaches. They ultimately agree, for different reasons, that principles of justice should be acceptable by all and should treat everyone in an impartial way. For one reason or the other, impartiality should thus be the baseline of theories of justice¹³.

The original position, one of Rawls’ most famous ideas, is a useful representation in order to understand how to reach a set of public principles of justice that would be acceptable by all. One way to anticipate rationally which principles would gain the support of citizens in a public debate is to imagine ourselves in the following position. Suppose you are behind a “veil of ignorance”. You don’t know what are your particular values or interests. You ignore your personal conception of the good and which position you hold in society. Now, you need to decide which principles should organize social cooperation. These principles will need to be based on arguments that are acceptable by all, despite potentially fundamental disagreement about values and interests. For one thing, they will need to treat everyone in an impartial way otherwise no agreement will be possible. When thinking about justice, everyone should represent himself to be in this original position¹⁴.

The method in political philosophy is also important. One criterion to evaluate normative reasoning is the logical validity of the arguments. Premises need to lead to conclusions. But to identify among valid arguments which ones are convincing, their normative premises need to fit with our considered judgments about ethics and justice. The empirical premises also need to be backed by empirical sciences. The conclusions, finally, need to fit with our considered judgments about particular cases. Seeking coherence between these three sets of statements is what Rawls and Daniels describe as the “wide reflective equilibrium”¹⁵. Beyond the logical validity of the arguments and the reasonableness of normative premises, the input of empirical sciences is thus crucial in order to be able to make concrete policy recommendations. Our conclusions about *how* to realize justice will also depend on our empirical knowledge. The role of philosophy is not to design empirical protocols, to gather data and to make empirical explanations. This should be left to empirical sciences. But philosophers should work with social scientists to articulate the fine-grained requirements of normative theories with available empirical data in economics and social sciences¹⁶. In this thesis, I will focus on the logical structure of the normative arguments. But when I will make empirical claims, I will try to justify them based on up-to-date research in economics and social sciences.

The standard distinction between “*ideal*” and “*non-ideal*” theories of justice is also worth mentioning here. Let’s be clear: contrary to moral theories, *political* theories of justice exist only because there are disagreements of values and interests leading to conflicts. This is the

¹³ On the merits of justice as mutual advantage, see: Becker 2005. On the distinction between justice as mutual advantage and justice as impartiality, see: Barry 1995.

¹⁴ Rawls 2001 : 14-18, 80-93

¹⁵ Rawls 1971: 17-21; Daniels 1979: 258-261

¹⁶ Philosophy can also guide empirical research by pointing at the knowledge we still need to reach conclusions.

very reason why we need theories of justice and institutional regulations aimed at enforcing just principles in the first place. Therefore, all *political* theories of justice already try to design a better world while taking into account “non-ideal” circumstances. As James Madison said, “If men were angels, no government would be necessary”¹⁷. Therefore, I think that attacking “ideal theory” on the ground that we live in a “non-ideal” world is a conceptual mistake.

Here is, I think, a more appropriate and useful distinction between “ideal” and “non-ideal” theory. Ideal and non-ideal theory both need to accept humans *as they are*, and think of institutions *as they should be*. The only difference between the two should be the focus made on different levels of normative evaluation. *Ideal theory* helps us to understand why achieving justice ultimately requires just institutional structures. A coherent set of institutions is what, overall, secures justice over time and avoids the creation of unjust inequalities in the first place. But *good* ideal theory needs to propose workable institutional arrangements and should, therefore, take into account *feasibility constraints*. If an ideal is infeasible, it is useless and it should be changed. Ideal theory focuses therefore on the evaluation of regimes or sets of institutions and how their implementation over time would solve problems of justice altogether. By contrast, *non-ideal theory* focuses on proposing immediate preliminary steps in the path leading to realize just institutions. It also looks at which steps can relieve immediately the most extreme forms of injustice in non-ideal circumstances. Therefore, there is no categorical distinction between both. Ideal theory informs non-ideal theory about the ultimate goal in terms of just institutions. Then, non-ideal theory specifies the sequence of steps we need to take in non-ideal circumstances in order to realize just institutions¹⁸.

Citizens are ultimately the *actors* responsible for realizing just institutions. Because everyone accepts institutions restricting their freedom in order to secure the advantages of cooperation, each individual has an obligation towards others to participate in establishing just institutions if they do not exist and to maintain them if they already exist¹⁹. However, institutional conceptions hold that principles of justice only apply to public institutions, not directly to individuals’ daily actions. Public institutions should secure that the aggregate result of individual actions ends up realizing justice. There are at least three reasons for individuals to realize justice *through* public institutions instead of on their own. The first reason to act through public institutions is that public institutions can provide guarantees for democratic legitimacy and accountability. Public and democratic institutions have the legitimacy to take care of the common good, to set collective priorities, and they are more transparent because laws can secure to all citizens access to the relevant information regarding public decisions and legislations. By contrast, individuals, firms, and NGOs have little democratic legitimacy and are often less transparent. The second reason to act through public institutions is that public institutions have an overview of the situation and have more information. They are therefore better equipped to coordinate actions and they can design coherent and efficient policies based on collective priorities. By contrast, most average citizens lack the information and power to act efficiently. The third reason to act through public institutions may be the most important. Public institutions and regulations provide legal safeguards and checks and balances guaranteeing the stability of justice over time. Only public regulations, not trust in individuals’ good will, can provide guarantees that social protections will not disappear over time. Justice should not rely on volatile good will but on solid institutional safeguards²⁰.

¹⁷ On the distinction between ideal and non-ideal theory (and the citation of Madison), see: Levy 2014

¹⁸ For good discussions on ideal and non-ideal theory, and critics of the categorical distinction between the two conceptions, see: Rawls 2001: 13; Levy 2014; O’Neill & Williamson 2012a: 2-4.

¹⁹ Rawls 1971: 111-112

²⁰ For a justification of an institutional approach: Rawls 2001: 12-15, 32, 54; Van Parijs, in Freeman 2003: 229.

3 – Theoretical framework: What does justice require of inequalities?

A liberal egalitarian conception of justice

In this thesis, I will adopt a liberal egalitarian conception of justice close to the one developed by John Rawls. Most liberal egalitarian conceptions hold that rational citizens deciding about principles of justice and looking for a political agreement would want to secure everyone's *freedom* to realize their conception of the good life. First, they would propose principles protecting *formal freedom*. Just institutions should respect a general presumption of formal freedom or against legal restrictions. Just institutions should also secure to everyone an equal set of basic formal freedoms. This leads to a version of the first principle of justice:

First principle: Public institutions should respect a general presumption of formal freedom and “each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which is compatible with the same scheme of liberties for all”²¹ (for instance, formal freedoms of expression, assembly, association, conscience, bodily integrity...).

Second, citizens would propose principles to distribute fairly the means of *real freedom*, meaning the material and personal means allowing people to pursue their conception of the good life. For Rawls, the means of real freedom are social primary goods. Just institutions should distribute these primary goods in a fair way. This leads to the second principle:

Second principle: “Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*”²².

This thesis will analyze in details why these two principles along with general requirements of institutional stability constitute the appropriate conception of social justice. Obviously, no contemporary society respects these principles of justice entirely. Across the world, unjust inequalities are rising and leave many people in extreme poverty.

Why is inequality a problem and not simply poverty?

Liberal egalitarian principles of justice help to identify unjust inequalities and provide reasons to implement public policies aiming at reducing such inequalities. Yet, there is a popular view according to which equality is not intrinsically valuable and inequalities are not problematic *per se*. According to this view, institutions should focus instead on relieving poverty. They should only make sure that the life of everyone reaches a “*sufficient*” quality²³. In the thesis, I will give reasons to justify equality on instrumental grounds. These reasons justify rejecting any view that focuses only on *sufficiency*. Let me underline some important points right away.

First, the fair value of political liberties and political equality are affected by too much economic inequality. Indeed, deep inequalities often translate into inequalities of political power. One reason is that money and power are positional, meaning that your relative position in society affects your absolute position. People in advantageous positions have at their disposal economic resources and networks to influence politicians and public opinion. Moreover, they may see an interest in disrupting redistribution and social programs helping the poor. This is problematic in itself if we value political equality and democracy but it is also problematic for the long-term stability of the institutions organizing social cooperation²⁴.

²¹ Rawls 2001: 42. I will explain later why I use “liberties” and “formal freedoms” interchangeably.

²² Rawls 1971: 83; 2001: 39-50. Van Parijs (1991: 225) argues for an interpretation in terms of real freedom.

²³ Frankfurt (2015) is one of the supporters of such a misleading view.

²⁴ Large income and wealth inequalities create political inequalities and domination (Rawls 2001: 137-138; O'Neill in O'Neill & Williamson 2012a: 81-84; Stiglitz 2012: 181-211; Malleson 2014: 137-140).

Second, given that we need to reach a political agreement, rational people will ask for the highest share of resources that is acceptable by others. Given a fixed bundle of resources, the only way to give everyone the highest possible share in a way that is acceptable by all is to give everyone equal shares. In a dynamic system, the only acceptable inequalities would thus be the ones benefiting everyone. By contrast, if we reject equality and look for a principle of sufficiency, who would be in charge to decide what is “sufficient” for the poor? Certainly, the elite (politicians, intellectuals, CEOs...) has no legitimacy in deciding what is “sufficient” for others (we could all agree on sufficient food, but what about free public education?). Therefore, in order to decide what a just distribution of advantages is, everyone should be involved and should be taken impartially into account. There are reasons to think that the poor will not be satisfied with what is “sufficient” and will ask for their entire fair share²⁵.

Of course, some may think that the most advantaged deserve their situation. But there is no way to justify, with arguments acceptable by all, that the advantages we get on the market are rightfully ours. What we get on the market does not represent our personal “contribution”, the “fruit of our labor”, or the result of our “choices” in any way. As I have already underlined earlier, mutual cooperation, family, division of labor, economic exchanges, education, language, technological innovation, accumulated material and human capital from previous generations, collective infrastructure (and so on...) are the origin of almost all what we are able to produce²⁶. Therefore, there is no reason why some should have the right to keep a bigger share of the social product than others, unless these inequalities benefit everyone.

Third, inequality *in itself* does affect individuals. When there is too much inequality between social positions, when there are very few well rewarded and prestigious jobs and a lot of menial and repetitive jobs, individuals develop more competitive behaviors. This raises anxiety, leading to many health problems such as depression and self-devaluation of the “losers”. This also leads to social problems such as more risky behaviors, law avoidance, and outright fraud. Too much competition has certainly created incentives for risky behaviors leading to the financial crackdown of 2008 or the negligence of oil companies with regard to environmental safeguards leading to recent oil spills. Competition also leads to many other problems such as ostentatious consumption. All of this threatens the stability of cooperation²⁷.

This is why we should be preoccupied by the fact that inequalities are rising and we should propose policies to reduce unjust inequalities. The sufficientarian position, according to which institutions should not care about inequalities and focus only on relieving poverty, is profoundly misleading and is based on a very simplistic conception of society.

Some historical remarks about inequalities

The unjust concentration of income, capital, and power in the hands of the few and the poverty of the many are not new features of human societies. How much struggle and sacrifice has been necessary during the last centuries to secure basic social protections?

In western countries, in the 19th century, industrialization and the rise of capitalism led to economic growth, population growth and rapid urbanization. As a consequence, traditional forms of solidarity were weakened (family networks, charity organizations, feudal relations or municipalities), which massively increased the poverty of the working class. But the

²⁵ This is the intuition behind the original position and the veil of ignorance (Rawls 2001: 14-18, 80-93).

²⁶ I will discuss this latter on in the thesis. Cf. Chapter 2

²⁷ I will discuss this latter on in the thesis. Cf. Chapter 5

consolidation of Nation-states, democracy and the recognition of civil rights, as well as the organization of workers movements helped the working class to claim regulations and social programs to help workers and disadvantaged people. This was not motivated only by a concern for justice but also by efficiency considerations. Some saw social insurance programs as investments to promote “endogenous” growth and develop competitive advantages²⁸.

However, the elites kept most of their political and economic power and inequality remained very deep. If political movements proposing social protections were gaining influence, they remained very weak compared to these elites. This is why states have always limited their ambition to weak redistributive mechanisms instead of profound economic reforms²⁹.

In the second half of the 20th century, liberal democracies tried to extend the Welfare State. The famous Beveridge Plan in the United Kingdom in 1942 is one example. Many factors can explain this political choice. First, since the economic crisis of 1929, states like the United States of America had come to understand that public investments were important for economic recovery. Second, the discourse invoked by the Allies to mobilize their population during the Second World War was explicitly mentioning the aim to secure the welfare and social security of all citizens. Third, at the end of the war, many European countries were devastated and some western leaders feared that the population of these countries would turn their sympathy to the Soviet Union. Therefore, the cold war also involved a competition to prove which socio-economic system was the best for its citizens. This has pushed all regimes in developed countries to provide protections to disadvantaged people³⁰.

Welfare States and unions still play an important role to protect workers and all disadvantaged people. But they got more and more threatened in the last forty years and following the collapse of the Soviet Union. The development of international trade has increased capital mobility and firms’ capacity to delocalize in foreign countries. This had very negative effects on the power of states to raise taxation on capital and the power of unions to negotiate with employers for worker protections³¹. These factors partly explain why wealth inequalities are rising again and flirt with the magnitude experienced during the industrial revolution³².

Today, despite economic development and innovation, most of the global wealth is still owned by a tiny fraction of the world’s population. The declining power of states and unions has worrying effects on political inequalities, social programs and the capacity of workers to defend their rights³³. As Piketty and his colleagues, as well as many other social scientists, underline: “The share of total income going to top income groups has risen dramatically in recent decades in the United States and in many other... countries”³⁴. Inequalities across countries and within countries are deep and get continuously worse, hundreds of millions of human beings suffer from poverty around the world, one in five human beings cannot meet his essential needs and millions die of the consequences of poverty³⁵.

It is to everyone’s advantage and it is everyone’s responsibility to establish a just society and to fight against unjust inequalities. But in order to do that, we need a good plan.

²⁸ Castles & Al. (eds.) 2010: 3-5

²⁹ One can find a similar intuition in Marx ([1865]: 74)

³⁰ Castles & Al. (eds.) 2010: 7-9

³¹ Castles & Al. (eds.) 2010: 8-14; Avi-Yonah 2000: 1575; OECD 2011

³² Piketty 2013: 591-598

³³ Avi-Yonah 2000; OECD 2011; Stiglitz 2012; UN 2013

³⁴ Atkinson, Piketty & Saez 2011: 6. See also: Piketty 2013: 591-598; OECD 2011

³⁵ Pogge 2005 : 30-31; OCDE 2008, 2011; Piketty 2013: 591-598; UN 2013 : 23-40

4 – Justice requires egalitarian organizations: The argument of this thesis

I argue in this thesis that liberal egalitarian principles of justice require public institutions to promote egalitarian organizations such as workers cooperatives. The argument consists in demonstrating that any system tolerating inegalitarian organizations such as Welfare State Capitalism, even in its strongest version, is insufficient to realize justice.

Organizations can create inequalities

States have long been inegalitarian. In many societies, citizens have fought to make them more egalitarian by establishing universal suffrage, civil rights, political equality and basic social protections. Since the 1970s, liberal egalitarian philosophers such as John Rawls tried to go further and studied how political institutions should address unjust inequalities in economic resources and opportunities. However, philosophers have overlooked for too long the contribution of economic *organizations* to the creation of unjust inequalities.

The United Nations have underlined the importance of more sustainable and less inegalitarian forms of development benefiting everyone in their report “Inequality Matters”³⁶. But in a recent report of the Organization for Economic Cooperation and Development entitled “Divided We Stand: Why Inequalities Keep Rising?”, experts underline that “redistribution strategies based on government transfers and taxes alone would be neither effective nor financially sustainable” because they may create problematic incentives and because most states operate under a reduced fiscal space³⁷. Therefore, other ways to reduce inequalities should be investigated. In this thesis, I will argue that public institutions should promote *egalitarian organizations* in various sectors of the economy.

Because liberal egalitarianism focuses on the regulation of institutions, and because this has a major influence on the structure of organizations, a clear definition of institutions and organizations is important right away. Institutions are abstract sets or formal or informal rules allowing, forbidding or influencing behaviors. Liberal egalitarianism focuses on the most important institutions having a profound impact on individuals’ prospects in life, such as the political constitution, the judiciary system and the main socio-economic institutions such as private property and the rules of competitive markets³⁸. In this thesis, I will use the term “public institutions” to refer to the body of institutions supposed to realize justice. How institutions are regulated influences the structure of organizations.

Organizations, by contrast, are concrete associations of individuals sharing a purpose, coordinating their activities and dividing work among them. Formal organizations coordinate cooperation and create social positions attached to some burdens and socio-economic benefits of cooperation. For example, the political constitution is an institution and the state apparatus is the organization depending on it. Private property is another institution and firms are organizations depending on it³⁹. How private property is regulated influences the structure of firms and the social positions (the kind of jobs) they create. It also influences decision-making structures and therefore the distribution of income, capital and power between the people involved (shareholders, workers, consumers and so on)⁴⁰.

³⁶ UN 2013: 23-40

³⁷ OECD 2011 : 40

³⁸ Rawls (1971: 7-10, 54-60; 2001: 10) gives a similar definition.

³⁹ Hansman 1996: 1-23; Simon 2000. This distinction is ambiguous in Rawls (1971: 7-10, 54-60). Formal organizations (states, firms) specify their goal and structures. Informal organizations (the family...) usually don't.

⁴⁰ Hansmann 1996: 11-23, 53, 89

As I said, contemporary philosophers have overlooked the contribution of economic organizations to the creation of unjust inequalities. This is an important blind spot since business and government organizations have become the main tool for coordinating economic activities, instead of markets⁴¹. For the economist Herbert Simon:

We are so accustomed to hearing our society described as a market economy that we are often surprised to observe that... markets have steadily declined, and business (and governmental) organizations have steadily grown as the principal coordinators of economic activity⁴².

Economic organizations such as firms, insurance companies or groups of consumers have an important impact on societies and individuals' lives. People spend a considerable amount of time working in organizations and consuming their products. These organizations distribute some of the most important means required to realize our conceptions of the good life, such as income, capital, and power over important decisions. They also organize working schedules and thus have an important impact on families, domestic work and leisure time outside the workplace. Therefore, their structure can be at the origin of some of the most important socio-economic inequalities⁴³. Theories of justice seem to have overlooked the importance of organizations and should now explore this blind spot. I agree with Nien-hê Hsieh here:

The discipline of economics is said to have been unconcerned, until relatively recently, about the organization of production. [...] To be certain, there have been scholars who have called for greater attention to be paid to the role of organizations in economics. Building on their insights, the study of organizations has become a central area of inquiry for economics. [I argue] for following a similar line of development in the study of what justice requires of social institutions⁴⁴.

Some economic organizations create very few inequalities. For instance, it is often the case of worker cooperatives. The Mondragon Corporation Cooperativa, a group of more than 100 cooperatives in the Spanish Basque Country, is a powerful example. For a long time, the cooperative group was paying managers only six times the wage of the lowest paid employee. Today, all members still have good incomes, own the capital collectively and share decision-making power inside the firm. There are limits to this model but it definitely creates less inequality⁴⁵. We could also think of egalitarian organizations in sectors such as insurance, finance, consumption, housing, and so on. Each sector can be organized in a more or less egalitarian way and can create specific types of inequalities.

By contrast, many economic organizations today are very inegalitarian. Joseph Stiglitz underlines that the governance in capitalist firms is an important factor explaining the rise in income inequalities experienced in societies such as the United States of America, where CEOs often earn hundreds of times the wages of their lowest paid worker. Thomas Piketty also underlines that capital inequalities are even more important. A small minority of people owns the great majority of wealth, including firms' shares. Robert Dahl, Iris M. Young, and Tom Malleson underline that firms' structures also influence inequalities in decision-making power about very important decisions such as the division of labor and investment choices⁴⁶.

⁴¹ Simon 2000; Dow 2003; Hsieh 2008b

⁴² Simon 2000

⁴³ Dahl 1985; Stiglitz 2012; Piketty 2013; Malleson 2014

⁴⁴ Hsieh 2008b: 95

⁴⁵ Whyte & Whyte 1991

⁴⁶ Stiglitz 2012; Piketty 2013; Dahl 1985; Young 2006; Malleson 2014

Therefore, I will argue that we should distinguish egalitarian and inegalitarian organizations. In a Rawlsian framework, egalitarian organizations are the ones creating very few inequalities of social primary goods between social positions *within* or *across* organizations. Inegalitarian organizations are the ones creating important inequalities between social positions *within* or *across* them. I will argue that in order to realize justice, public institutions should promote egalitarian organizations instead of tolerating inegalitarian ones.

Many people in civil society and many actors in social enterprises are partisans of egalitarian organizations. Yet, it is one thing for individuals to personally value egalitarian organizations. It is another to justify that public institutions are legitimate to regulate organizations or simply spend public resources to make sure that *all* economic organizations ultimately become more egalitarian. Imposing public regulations to everyone, intervening in markets and spending public resources affect people's lives in many ways. Therefore, a strong justification is needed to demonstrate that public institutions are legitimate to promote egalitarian organizations.

Some political philosophers and social scientists have recently investigated issues related to inequalities within firms. They investigated for instance whether public institutions should impose a maximum income or a maximum ratio inside firms or promote worker cooperatives and workplace democracy⁴⁷. Yet, no one has proposed a comprehensive view of the normative reasons to promote egalitarian organizations, not only to coordinate work but to coordinate all other economic activities as well. This is what I aim to provide in this thesis.

The central question is thus the following: *According to liberal egalitarian principles of justice, should public institutions promote egalitarian organizations?*

Public institutions should promote egalitarian organizations

If we had to start a new society from scratch with the goal of creating a more egalitarian society, it could seem intuitive at first sight to implement right away a socio-economic system involving mostly egalitarian organizations. It can thus be surprising to notice that most countries today prefer to tolerate very inegalitarian organizations. But there are arguments to justify such a tolerance for inegalitarian organizations.

First, it can be argued that public intervention to promote egalitarian organizations unnecessarily limits individual freedom because it prevents people from creating the kind of associations they want. Second, it can be argued that public intervention in the economy would reduce economic efficiency and thus reduce the purchasing power of the least well-off. We need to take these two objections very seriously⁴⁸. One reason to take these objections seriously is that there could be less intrusive and more efficient alternatives to realize a just society. For instance, systems such as Welfare State Capitalism do tolerate inegalitarian organizations. But it could be argued that this is not a problem because public institutions can implement a wide range of other welfare policies that are able to correct the resulting unjust inequalities. For instance, public institutions can tax the rich and redistribute income and capital to the poor, they can foster unions to create an equal balance of power over democratic decisions, and they can fund public schools to develop people's abilities and so on. If so, there would be no need to regulate organizations. It would be possible to realize a just society while tolerating inegalitarian organizations. I will refute these arguments.

⁴⁷ Dahl 1985; Ramsay 2005, Fleurbaey 2006; O'Neill 2008; Arnold 2012; González-Ricoy 2014; Malleson 2014

⁴⁸ For the argument about freedom, see: Friedman 1962: 32; Tomasi 2012: 48-49; Nozick 1974: 250; Anderson 2015: 48. For the argument about efficiency, see: Nozick 1974: 250-251

In the first part of the thesis, while adopting liberal egalitarianism, I try to dissipate some ambiguities and to solve some problems within the theory. In the second part, I use these modifications to the theory to propose two arguments demonstrating that any system tolerating inequalitarian organizations is always insufficient to correct all the unjust inequalities they create and thus fails to realize a just society. In particular, I demonstrate that Welfare State Capitalism, *even in its strongest version*, is insufficient to realize all the requirements of justice. It would fail to do so in ideal circumstances as much as in non-ideal circumstances.

The first argument demonstrates that a Strong Welfare State Capitalism may succeed in realizing a just distribution of income and capital through redistributive taxation, but it will fail to realize a just distribution of *all* other primary goods such as protection from domination, self-governing capacities, and self-respect. The second argument demonstrates that the redistributive policies supposed to correct unjust inequalities created by inequalitarian organizations are not *stable* over time. If these arguments are correct, it becomes necessary for public institutions to promote egalitarian organizations in order to realize justice.

In the third part, I apply this general argument to one specific case: the organization of production. I argue in favor of concrete public policies promoting specific types of worker cooperatives because they tend to create less inequality. But my argument also applies to other organizations in various sectors of the economy such as risk management, finance, consumption, housing and so on. The contribution of this thesis is to justify a System of egalitarian organizations in which public institutions would dedicate resources, coordinating efforts and regulations to promote egalitarian organizations in all sectors of the economy.

Changing how we think about social progress: Capitalist vs. Cooperative economies

Disputes about which socio-economic system best realizes principles of justice have been going on for a long time. The core of this debate used to oppose “state-owned socialist” economies and “capitalist free market” economies. But there are alternatives and the future of our society should not be seen in any of these two systems. Instead, many authors have argued to go beyond this opposition and have proposed that what justice requires is to change the “capitalist” feature of market systems, by modifying the ownership structures of economic organizations, rather than rejecting “free market” itself⁴⁹.

Echoing a long lasting idea held by the first defenders of the cooperative movement, this thesis is part of a movement proposing to change the way we think about economic systems and social progress. I will analyze not only how economic structures create inequalities of income and wealth, but also how authoritarian economic structures create inequalities of power, self-governing capacities, and self-respect. I will argue that *this* is the source of the massive injustices we rightly complain about in our societies, *not* the market economy.

Therefore, it is important to note that a System of egalitarian organizations such as the one I will argue for in this thesis is compatible with and complementary to a market economy. What would change is only the kind of organizations evolving and competing on the market. The real debate should be about the choice between a “cooperative market economy” and a “capitalist market economy”, by reference to the kind of organizations that predominates in the market. I will argue that cooperative organizations should predominate, instead of capitalist organizations. However, preserving a market economy has very important advantages both in terms of freedom and in terms of economic efficiency.

⁴⁹ Dahl 1985; Fleurbaey 2006: 7-23; Malleson 2014

5 – The structure of the argument

The First Part of the thesis introduces liberal egalitarianism. I try to dissipate some ambiguities and to solve some problems within liberal egalitarianism to ground the arguments that I develop later in favor of public intervention to promote egalitarian organizations.

In Chapter 1, I underline that liberal egalitarianism needs to develop convincing arguments in order to justify public regulations limiting the formal freedom of individuals. If everyone can understand why some restrictions of formal freedom are important in order to coordinate social cooperation and produce useful resources to secure everyone's *real freedom*, public institutions should not be allowed to regulate without constraints all aspects of individuals' behaviors. There should be limits to public intervention. This raises the issue of the scope and limits of legitimate public intervention. The standard view on this issue holds that there is a priority of the first principle over the second, i.e. restrictions of one basic formal freedom are only allowed in order to protect other basic formal freedoms but not in order to realize a just distribution of real freedom. But this standard view faces important problems. I will focus on the following question: *Should restrictions to basic formal freedoms be allowed when necessary to realize a just distribution of real freedom?*

The *results* are the following. I argue for a general presumption of formal freedom. According to this principle, a public intervention is legitimate *if and only if* it is *necessary* to realize justice, which means that there is no *less intrusive* alternative to do so. This means that public intervention is legitimate whenever it is necessary to realize justice. In the case of basic formal freedoms, I argue that the priority cannot apply to basic formal freedoms *as such* but can only apply to their *equal* distribution. In other words, restricting the content of all formal freedoms should be allowed when necessary to realize a just distribution of real freedom. The only additional requirement for *basic* formal freedoms is to restrict them in an *equal* way for everyone. Therefore, institutions cannot create inequalities of basic freedoms, such as depriving some religious groups of their basic rights, even if this could help in some way to realize other principles such as maximizing the socio-economic situation of the least well-off.

I conclude that from a liberal point of view, no other reason can forbid restrictions on formal freedoms in general and basic ones in particular. Therefore, public institutions are legitimate to regulate any aspect of individuals' lives *as soon as* it is *necessary* to realize justice. The priority of the first principle only adds a criterion restricting the kind of intervention allowed in the case of basic formal freedoms but does not single out any institution for being protected from any regulation. This interpretation dissipates the whole debate about which institutions are included in or excluded from the so-called "basic structure of society". In my view, no institution is, intrinsically, part of or excluded from the basic structure just because of what they are (such as families or firms) and regardless of the consequences of their regulation.

The *contribution* of this chapter consists in revisiting the priority of the first principle of justice managing public interventions restricting formal freedom. The case-study analyzing the legitimacy of public intervention to regulate the governance of economic organizations helps to understand how to use this interpretation of the first principle to make policy recommendations. This will be particularly useful in the following steps of this thesis dealing with public intervention to promote egalitarian organizations.

What's next? Now that the distinction between formal and real freedom is settled and that the principles dealing with the legitimate restrictions of formal freedom are established, liberal egalitarianism needs to specify how exactly are we to evaluate what is *necessary* to realize a just distribution of real freedom. The first step to do so is to answer the following question:

what is a just distribution of real freedom? In Chapter 2, I propose a *metric* to measure real freedom, a list of *social primary goods* to serve as proxies for authorities to monitor progress towards justice, and I specify what should be the *pattern* of distributive justice.

In Chapter 2, I underline that liberal egalitarianism needs convincing arguments to justify what a just distribution of real freedom is. Justice requires public institutions to intervene in order to realize a just distribution of real freedom. This requires defining real freedom, providing a precise *metric* for measuring it, a list of *proxies* for public authorities to use, and arguing for a just *pattern* of distribution. In short: *What is a just distribution of real freedom?*

The *results* are the following. Concerning the *metric*, if real freedom is (broadly) the metric of justice, we need to be able to measure individuals' real freedom in a way that is acceptable by all. I argue for an objective account in terms of "social primary goods attached to social positions". I also propose a list of social primary goods respecting the two criteria of being the most *polyvalent* and *workable* goods. This list is closely inspired by Rawls' list of social primary goods and by contemporary research. The list includes the social bases of purchasing power, of protection from domination, of self-governing capacities and of self-respect.

Concerning the *pattern* of justice, I explain the reasoning leading to the second principle. The second principle involves two related requirements: *a.* maximizing the bundle of primary goods attached to the lowest social position, compared to strict equality (*the difference principle*) and *b.* securing to all a *fair equality of opportunity* to access these social positions. I finally argue that egalitarianism should not be responsibility-sensitive.

This chapter mainly serves to set the theoretical framework necessary to analyze distributive issues in the next chapters and to take positions on some specific issues within the liberal egalitarian framework. The *contribution* of this chapter consists mainly in clarifying two points in this framework. First, I argue for an objective understanding of the metric of justice which helps to make sense of the distinction between distributive and allocative justice. Second, while staying close to Rawls' original intuitions, I propose a more detailed list of social primary goods. This will be useful to following steps of my argument.

What's next? The second principle requires maximizing the bundle of primary goods attached to the social position of the least well-off. If one can understand how to maximize *one* good like income, things get more difficult when it comes to maximizing an *index* of goods. If real freedom is affected by many goods, it may be possible to substitute one good by another in the bundle of the least well-off. But every substitution may not preserve the value of the bundle. This is the *indexing problem*: *which combination of primary goods can maximize the real freedom of the least well-off?* In Chapter 3, I will propose a solution to this problem.

In Chapter 3, I underline that liberal egalitarianism needs to solve the indexing problem in order to address adequately any issue involving the substitutions of social primary goods. The second principle requires maximizing the bundle of primary goods attached to the social position of the least well-off. But if one can easily understand how to maximize *one* good like income, things get more difficult when it comes to maximizing an *index* of goods. If real freedom is affected by many goods, it may be possible to substitute one good by another in the bundle of the least well-off. But every substitution may not preserve the value of the bundle. This is the *indexing problem* and it leads to the following question: *Which combination of primary goods can maximize the real freedom of the least well-off?*

The *results* are the following. I propose, within the restricted setting of liberal egalitarianism, a solution to the indexing problem. I demonstrate that Rawls' primary goods have diminishing

marginal returns. Therefore, they also have diminishing marginal substitution rates. The less of a good there is in a bundle, the highest its substitution rate gets. I conclude that given the substitution rates of social primary goods, and given some plausible empirical assumptions about the relative efficiency of possible socio-economic systems, there is an objective solution to the indexing problem. Very few substitutions are in fact feasible in practice at least as far as the bundle of the least well-off is concerned. Therefore: *Maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each primary good.*

The solution I propose is based on at least two empirical assumptions. The first assumption is that regimes such as the System of egalitarian organizations are sufficiently efficient to provide a high amount of each primary good and avoid the collapse of the economy. The second assumption is that the benefits of alternative systems such as Welfare State Capitalism in terms of efficiency may be real but not very high. If so, these benefits in terms of income, for instance, would not be able to compensate for the loss of other social primary goods in the bundle of the least well-off. A demonstration of these assumptions requires a detailed empirical demonstration. In Chapter 6, I will provide such a demonstration.

The *contribution* of this chapter consists in proposing a plausible solution to the indexing problem. This solution is restricted to a liberal egalitarian framework and to metrics and lists of goods sharing specific characteristics. It will be useful in following steps of my argument in order to avoid counter-arguments involving possible substitutions of primary goods.

What's next? Now that the principles of justice are clarified and that most potential misunderstandings are avoided, which are often the ground for problematic objections down the way, I will analyze how to realize distributive justice.

In the Second Part, I use the theoretical modifications made in the first part in order to propose new arguments for a System of egalitarian organizations. I demonstrate why liberal egalitarianism requires public institutions to promote egalitarian organizations.

In Chapter 4, I underline that liberal egalitarianism needs to evaluate which socio-economic system best realizes all the requirements of justice. As I said, since the 1970s, liberal egalitarian philosophers such as John Rawls have studied how political institutions should address unjust inequalities in economic resources and opportunities. But in this debate, political philosophers have overlooked the contribution of organizations to the creation of unjust inequalities. Yet, business and government organizations have become the main agents coordinating economic activities. While some corporate structures, such as worker cooperatives, create few inequalities many other, such as capitalist firms, create large inequalities of all social primary goods. This raises the following question: *Should public institutions promote egalitarian organizations or tolerate inegalitarian ones?*

The *results* are the following. I first argue that we should reframe the debate about which socio-economic system best meets the requirements of justice around the following alternative. A *System of egalitarian organizations* (SEO) requires public interventions to promote egalitarian organizations while *Strong Welfare State Capitalism* (WSC) avoids it, tolerates inegalitarian organizations, and implements alternative policies in order to meet the requirements of justice. Among all possible socio-economic systems, a System of egalitarian organizations and a Strong Welfare State Capitalism are the only ones respecting the first principle of justice and fair equality of opportunity. Therefore, I conclude that the debate will be settled on their respective capacity to realize the difference principle over time.

I then argue that the *liberal egalitarian strategy* is the only appropriate strategy to argue for egalitarian organizations. I also show that the liberal egalitarian arguments for public institutions to tolerate inegalitarian organizations have a *shared weakness*:

- (1-) Public institutions should 1. respect a presumption of formal freedom / 2. foster efficiency.
 - (2-) A System of egalitarian organizations 1. restricts more formal freedom / 2. reduces efficiency compared to a Strong Welfare State Capitalism.
 - (3-) **A:** A Strong WSC is sufficient to realize all the requirements of justice.
- Conclusion:* A Strong Welfare State Capitalism is the best system to realize justice.

Their shared weakness is that they both rely on a crucial assumption **A:** A Strong Welfare State Capitalism is *sufficient* to realize all the requirements of justice by correcting all unjust outcomes created by inegalitarian organizations. If liberal egalitarians are to argue for public interventions to promote egalitarian organizations, the only appropriate strategy consists in refuting assumption **A**. It consists in demonstrating that $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize justice because it fails to correct all the unjust outcomes produced by inegalitarian organizations. If so, promoting egalitarian organizations becomes necessary to realize justice.

The *contribution* of this chapter consists in two main points. First, I justify why organizations should be the center of concern when it comes to evaluating which socio-economic system can best realize the requirements of justice. Second, I provide a critical literature review of the previous arguments in favor or promoting more egalitarian organizations. I demonstrate why liberal egalitarians need new arguments to justify to start promoting egalitarian organizations and to stop tolerating inegalitarian ones. In short, they need arguments to demonstrate $\neg\mathbf{A}$.

What's next? In Chapter 5, I will provide two arguments justifying why public institutions should promote egalitarian firms by demonstrating $\neg\mathbf{A}$: Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize justice because it always fails to correct all the unjust outcomes produced by inegalitarian organizations.

In Chapter 5, I recall why liberal egalitarianism needs new arguments to justify the promotion of egalitarian organizations and against tolerating inegalitarian organizations. In Chapter 4, I asked whether public institutions should promote a System of egalitarian organizations or a Strong Welfare State Capitalism, tolerating inegalitarian organizations and realizing justice by other means. In Chapter 5, the goal is to answer this question. More specifically, the question is: *Why is Welfare State Capitalism insufficient to realize justice?*

The *results* are the following. I develop two new liberal egalitarian arguments to demonstrate $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize all the requirements of justice because it always fails to correct all the unjust distributive outcomes produced by inegalitarian organizations.

First, the “*distributive argument*” demonstrates that systems tolerating inegalitarian organization, such as Welfare State Capitalism, create inequalities in terms of purchasing power, protection from domination, self-governing capacities, and self-respect that cannot be compensated by mechanisms such as taxation, welfare programs or unions. This is why *more* organizations should be egalitarian. Second, the “*stability argument*” demonstrates that systems tolerating inegalitarian organizations tend to be unstable because they create institutional complexity, problematic incentives and fail to provide everyone with the conditions to exercise their sense of justice. This is why *all* organizations should be egalitarian. I conclude that in order to realize justice, it is necessary for public institutions to implement a System of egalitarian organizations and get rid of all inegalitarian organizations.

The *contribution* of this chapter consists in proposing extensive liberal egalitarian arguments demonstrating why public institutions should promote egalitarian organizations and get rid of inegalitarian ones. I conclude that any system tolerating inegalitarian organizations, such as Welfare State Capitalism, is unjust and unstable. Contrary to previous versions of the first argument, I explain why public institutions should focus on polyvalent social primary goods, why they should give the least well-off, as much as possible, access to a social position combining the highest amount of each primary good and why promoting egalitarian organizations is necessary to this purpose. Contrary to previous versions of the second argument, I explain in greater details how inegalitarian organizations can threaten stability.

What's next? Until now, I assumed that there are egalitarian organizations able to deliver the outcomes that inegalitarian organizations fail to deliver. Moreover, I assumed that egalitarian organizations could be sufficiently efficient so that promoting them would not be catastrophic for the economy. In Chapter 6, I focus on a case-study and show why worker cooperatives qualify as egalitarian organizations and why public institutions should promote them.

In the Third Part, I begin to explain in more details what a System of egalitarian organizations would be, which organizations qualify as egalitarian and how to promote them. Given the institutional arrangements securing the other principles, I argue that a System of egalitarian organizations is sufficient to realize the difference principle in a stable way.

In Chapter 6, I focus on one case-study in the organization of production. If egalitarian organizations are to be promoted, we need to know which organizations meet our normative requirements. Indeed, it is also the role of philosophers to articulate normative theories with available empirical data and draw conclusions about how to realize justice through public policies. Based on up-to-date empirical research in economics and social sciences, I answer this question: *Why should public institutions promote worker cooperatives?*

The *results* are the following. I argue that a System of egalitarian organizations, promoting worker cooperatives, in particular, is sufficient to realize justice, at least as far as the difference principle is concerned. Given proper regulations, worker cooperatives can deliver the expected distributive outcomes and mitigate the stability problems raised by any systems tolerating inegalitarian organizations. I also tackle distributive and efficiency objections against the claim that worker cooperatives should be promoted. Among other things, I show how they can be very efficient provided proper support by public institutions. This solves some remaining issues raised by the substitutability of primary goods (discussed in Chapter 3) and helps to downplay one of the arguments in favor of Welfare State Capitalism (discussed in Chapter 4). Yet, I underline the existence of some exceptions and limits to my argument.

The *contribution* of this chapter consists in two main points. First, I apply the liberal egalitarian argument I developed in the previous chapter to the case of public interventions promoting worker cooperatives. Second, I also show how to tackle objections often raised against this proposition and I gather a set of policy proposals to promote worker cooperatives.

What's next? I conclude that in order to realize liberal egalitarian principles of justice, it is necessary and sufficient to implement a System of egalitarian organizations. Public institutions need to dedicate public resources and coordinating efforts to promote egalitarian organizations in all sectors of the economy such as the production of goods and ideas, risk management, finance, consumption, housing, etc. This thesis sets a research agenda for political philosophy, asking for more investigation about why public institutions should promote egalitarian organizations in all these sectors. Therefore, the ultimate aim of this thesis is to contribute to change the way we think about how to tackle distributive injustices.

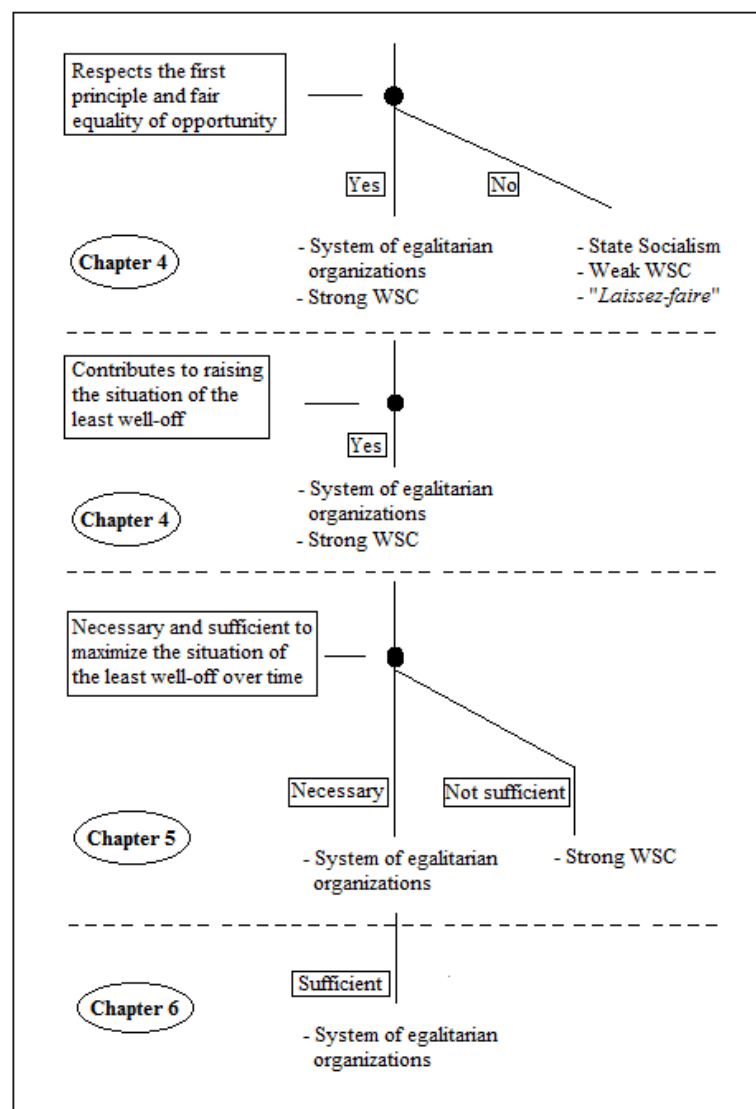
Let me summarize the progression of the argument in Chapters 4, 5 and 6.

In Chapter 4, I argue that State Socialism, Weak Welfare State Capitalism and “*Laissez-faire*” Capitalism do not respect the first principle and fair equality of opportunity. I also argue in Chapter 4 that both a System of egalitarian organizations and a Strong Welfare State Capitalism respect the first principle and fair equality of opportunity and both contribute to raising the situation of the least well-off. The choice between these two systems must, therefore, be made according to their respective capacity to maximize the situation of the least well-off. If **A**: a Strong Welfare State Capitalism is sufficient to realize all the requirements of justice, then a System of egalitarian organizations is not necessary and therefore public institutions are not legitimate to promote egalitarian organizations. However, if Strong Welfare State Capitalism is not sufficient to realize the requirements of justice, then promoting a System of egalitarian organizations becomes necessary to realize justice.

In Chapter 5, I provide two arguments demonstrating $\neg A$: Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize the requirements of justice, because it always fails to correct all the unjust outcomes produced by inequalitarian organizations. This is why it is *necessary* to promote egalitarian organizations.

In Chapter 6, I argue that a System of egalitarian organizations is *sufficient* to realize justice, at least as far as the difference principle is concerned. I also analyze one case study.

Progression of the argument



First Part

Liberal egalitarian justice

Chapter 1

Formal Freedom and the First Principle

Should restrictions of basic formal freedoms be allowed when necessary to realize a just distribution of real freedom?

No priority is assigned to liberty as such, as if the exercise of something called “liberty” has a preeminent value and is the main if not the sole end of political and social justice. There is, to be sure, a general presumption against imposing legal and other restrictions on conduct without sufficient reason. But this presumption creates no special priority for any particular liberty.

John Rawls (1993: 291-292) – *Political liberalism*

Introduction

Most liberal egalitarian conceptions of justice hold that public institutions should respect everyone’s freedom to pursue their conception of the good and distribute the means of freedom. First, just institutions should protect *formal freedom*. They should respect a general presumption of formal freedom or “against legal restrictions”. They should also secure an equal set of *basic formal freedoms* to everyone. This leads to a version of the first principle:

First principle: Public institutions should respect a general presumption of formal freedom and “each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which is compatible with the same scheme of liberties for all”¹ (*for instance*, formal freedoms of expression, assembly, association, conscience, bodily integrity...).

Second, public institutions should realize a just distribution of the means of *real freedom*, meaning the material and personal means allowing people to pursue their conception of the good life. For Rawls, the means of real freedom are social primary goods. Public institutions should thus secure a just distribution of social primary goods. This is the second principle:

Second principle: “social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*”².

If everyone can understand that some restrictions on formal freedom are important in order to coordinate social cooperation and produce useful resources to secure everyone’s *real freedom*, public institutions should not be allowed to regulate without restrictions all aspects of individuals’ behaviors. There should be limits to public intervention. This raises the issue of

¹ Rawls 2001: 42. I will explain later why I use “liberties” and “formal freedoms” interchangeably. Other terms are used in the literature to distinguish between *formal* and *real* freedom such as *negative* and *positive* (or *effective*) freedom (Berlin 2002; O’Neill 2014).

² Rawls 1971: 83; 2001: 39-50. Van Parijs (1991: 225) argues for an interpretation in terms of real freedom.

the scope and limits of legitimate public intervention. The standard view holds that there is a priority of the first principle over the second, i.e. restrictions on one basic formal freedom are only allowed in order to protect other basic formal freedoms but are not allowed for realizing a just distribution of real freedom. But this standard view faces important problems. Therefore, I will focus in this chapter on the following question: *Should restrictions to basic formal freedoms be allowed when necessary to realize a just distribution of real freedom?*

In Chapter 1, I will propose a definition of *formal* and *real freedom* and I will revisit what justice requires from public institutions when it comes to restricting formal freedom. I will revisit in particular the *priority* of the first principle and argue that restrictions to *basic* formal freedoms should be allowed when they are *necessary* to realize the two principles of justice, including when they are necessary to realize a just distribution of real freedom.

I will start by arguing for a presumption of formal freedom or, in Rawls' terms, "a presumption against legal restrictions". Of course, all public regulations are restrictions of formal freedom and, certainly, some regulations are required to realize any meaningful conception of justice. But I will argue that public institutions should respect a presumption of formal freedom which implies that they should restrict formal freedom *if and only if* these restrictions are *necessary* to realize the two principles of justice.

I will then dissipate two ambiguities about the first principle: the reason proposed to select *basic* formal freedom and the justification and meaning of their *priority*. I will first argue against the standard view holding that basic formal freedoms are the ones necessary to develop the two moral powers. I argue instead for a *positional view*: what makes some formal freedoms *basic* is their strong positional character. Then, this will lead me to argue against the standard view regarding the *priority* assigned to these basic formal freedoms. The priority should not apply to basic formal freedoms *as such* but should only apply to their *equal* distribution. In other words, restricting the content of all formal freedoms should be allowed when necessary to realize a just distribution of real freedom. The only additional requirement in the case of *basic* formal freedoms is to restrict them in an *equal* way for everyone.

I will finally argue that, from a liberal point of view, there is no other reason to avoid restrictions on formal freedoms in general and basic formal freedoms in particular. Therefore, public institutions are legitimate to regulate any aspect of individuals' lives *as soon as* it is really *necessary* to realize justice. The priority of the first principle only adds a criterion restricting the kind of intervention allowed for basic freedoms but does not single out any institution for being immune to regulation. The whole debate about which institutions are included in or excluded from the "basic structure of society" thus disappears. In my view, no institution is, intrinsically, part of or excluded from the basic structure because of what they are (such as families or firms) and regardless of the consequences of their regulation. In order to illustrate my position, I will analyze one case-study: the legitimacy of public intervention to regulate the governance of economic organizations. This will be particularly useful in the following steps of my argument for public intervention to promote egalitarian organizations.

In Section 1, I will first define freedom and specify the distinction between *formal* and *real freedom*. In Section 2, I will define and argue in favor of a *presumption* of formal freedom. In Section 3, I will show why the *positional view* selects *basic* formal freedoms and changes the interpretation of their *priority*. In Section 4, I will underline that there are no other reasons to avoid restrictions on formal freedoms and that the whole debate about which institutions are included in or excluded from the "basic structure of society" thus disappears. In Section 5, I will illustrate my position by studying the case of the regulating of economic organizations.

1 – Definitions: Formal freedom and real freedom

Liberalism and the value of freedom

One way to frame the discussion would be to say that the arguments presented in this chapter, and this thesis, are primarily addressed at people who value freedom. I will first assume that everyone *has a conception the good life* and has the capacity, at least potentially, to revise and to rationally pursue his own conception of what a good life is. I will also assume that everyone *wants* to realize their conception of the good life. People with these two characteristics will attribute a value to *freedom*, which can be defined as the effective capacity to realize a given choice or conception of the good life without constraints³. Second, I assume that everyone is minimally rational. Therefore, they can understand why their freedom depends on establishing *social safeguards* to protect them from others and on *material resources* produced by cooperation. I believe that all human beings are sufficiently similar to fit these two characteristics, or develop them, except perhaps extremely disabled people.

Another way to express the two same assumptions is the following. Rawls assumes the fundamental idea that everyone should be regarded as “free and equal persons”. In his view, persons so regarded have what he calls the “two moral powers”. The first moral power is “the capacity for a conception of the good”. It is more precisely: “the capacity to have, to revise and rationally pursue a conception of the good. Such conception is an ordered family of final ends and aims, or preferences, which specifies a person’s conception of what is of value in human life or, alternatively, of what is regarded as a fully worthwhile life”⁴. The second moral power is “the capacity for a sense of justice”. It is the capacity to understand and accept the collective rules required to secure social cooperation. More precisely: “it is the capacity to understand, to apply and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of social cooperation”⁵.

Indeed, social cooperation is crucially important to realize any conception of the good life but it requires collective rules. For Rawls there is between people, “an identity of interests since social cooperation makes possible a better life for all than any would have if each were to live solely by his own efforts”⁶. But the plurality of values and interests in our societies leads to conflicts. Therefore, there is a need for binding collective rules. As Rawls underlines:

There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share. A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an agreement on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation⁷.

³ Rawls 1993: 324-326; MacCallum 1967: 314. I will define freedom more precisely in the following section.

⁴ Rawls 2001: 19

⁵ Rawls 2001: 18-19. From the first moral power could be derived the second. If people are rational, they can understand that the freedom to pursue any conception of the good depends on social cooperation. It is easy for everyone to understand that, without social cooperation, life would be solitary, poor, nasty, brutish and short (to paraphrase Hobbes’ [1651] description of a state of nature). Therefore, human beings need to get together because they need to establish social safeguards against arbitrary interference and to produce material resources through social cooperation. But this is a controversial interpretation of the value of the second moral power.

⁶ Rawls 1971: 3-4

⁷ Rawls 1971: 3-4

Therefore, it is rational for everyone to accept collective rules restricting their freedom in order to secure the advantages of social cooperation. These rules are important to share the advantages of social cooperation in a way that will avoid conflicts and free riding for instance. Therefore, in order for cooperation to be stable over time, each individual has an obligation towards others to participate in establishing just institutions if they do not exist and to maintain and respect them over time if they already exist:

The main idea is that when a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to these restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission⁸.

There are philosophical disputes about many details of all the previous claims, but I will not engage in these debates⁹. I will assume, to sum up, that everyone has a conception of the good, wants to realize it and thus values freedom. I will also assume that everyone is sufficiently rational to understand the importance of some collective rules. Therefore, even if legal restrictions restrict their freedom *in some respects*, it is rational for them to accept some of them. The reason is that some legal restrictions are important to provide social safeguards and material resources that increase their freedom *in other respects*. In order to dissipate this apparent contradiction in terms (restrictions on our freedom can raise our freedom) it is useful to distinguish between *formal freedom* and *real freedom*: restrictions to someone's formal freedom can be acceptable for him if these restrictions raise his own real freedom.

How to define freedom and how to distinguish formal and real freedom?

Freedom can be defined as the capacity of an agent (x), to realize a choice (y), without constraint (z)¹⁰. For now, let's simply say that if someone has the capacity (x) to realize a specific choice (y) without constraint (z), this constitutes one "opportunity" for him. The more opportunities people have, the more freedom they have¹¹.

Real freedom includes all components. It includes the *capacity* of the agent (x) and the set of opportunities from which he *chooses* (y). Both depend on individuals' internal resources, such as health and intellectual capacities, and external resources such as income and wealth. Real freedom also includes legal and non-legal *constraints* (such as natural constraints) (z)¹². Real freedom is necessarily a matter of degree. People can have more or less natural or socially acquired capacities, a broader or more restricted context of choice, and more or less legal or non-legal constraints, which will extend or restrict the real freedom they enjoy¹³.

Formal freedom is nothing else but a subset of this general conception of freedom that only refers to the degree of *legal* or *social* constraints (z). Formal freedom is what Rawls refers to when he uses the concept of "liberty": "for Rawls, to have a liberty is to be free from institutional (i.e. legal or social) constraints in order to act in a certain manner"¹⁴. What makes formal freedom special is simply that whenever public institutions move a finger, they restrict the formal freedom of someone (but it is often required to raise the real freedom of everyone). Therefore, formal freedom is central to the issue of the scope of public intervention.

⁸ Rawls 1971: 112. I think this is the only way to justify and use appropriately the principle of *reciprocity*. This is a general conception of reciprocity, different from strict reciprocity requiring rewards proportional to effort.

⁹ For a defense of justice as mutual advantage, see: Becker 2005. For justice as impartiality, see: Barry 1995.

¹⁰ This definition is compatible with Rawls' (1993: 324-326) and is explicitly stated by MacCallum (1967: 314).

¹¹ I will explain how to measure opportunity sets in Chapter 2 (Van Parijs 1995: 21-22, 48-51).

¹² Rawls 1993: 324-326; Van Parijs 1991: 225; 1995: 21-24

¹³ Van Parijs 1995: 21-22, 48-51

¹⁴ Freeman 2007: 60. This is why I use "liberties" and "formal freedoms" interchangeably.

Real freedom includes various conceptions of freedom. It includes self-ownership, which means that the agent is the one deciding for himself. It includes security and safeguards from the constraints of others. It also includes the importance of having a wide set of opportunities¹⁵. I will show how this helps to understand the debate between formal and real freedom. Formal freedom is often referred to as “negative freedom” or “freedom from constraints”. Real freedom is associated with “positive freedom” or “autonomy”¹⁶.

The standard right-wing libertarian view held by authors such as Robert Nozick gives a predominant importance to *formal freedom*. In such a view, most public interventions are illegitimate, except the ones that are required to protect basic formal rights such as self-ownership and free exchanges¹⁷. Along with the fact that justifying a natural or absolute right to self-ownership is difficult, the main objection against the libertarian view is the following. Formal freedom is certainly important to secure our freedom, but it is certainly not sufficient because doing anything in life requires the use of some internal capacities as well as external resources such as income. Facing the possibility to be formally free but not really free, the partners in the original position would not accept a libertarian view¹⁸.

This is the reason why liberal egalitarians such as Rawls think that justice requires public institutions to restrict *formal freedom* to some extent through regulations if these regulations are necessary to raise the *real freedom* of some people¹⁹. For instance, public institutions are allowed to restrict the formal freedom of some people through progressive taxation, which restricts the use rich people can make of their market income, because it allows funding welfare programs providing more resources and thus more real freedom to poor people. Therefore, tax laws might restrict the formal *and* overall real freedom of rich people, but if tax laws also reduce the formal freedom of the poor (insofar as they will face the same restrictions if they become rich), they increase their overall real freedom. The opportunities that poor people lose because of restrictions of their formal freedom are compensated by all the new opportunities they gain thanks to resources they receive from welfare programs.

Chapter 1 focuses on the requirements of the first principle regarding *formal freedom* and investigates in particular when it is legitimate to restrict formal freedom in order to realize a just distribution of real freedom. For now, I will not argue for any specific conception of what a just distribution of real freedom is. In Chapter 2, I will explain why liberal egalitarians generally argue for variants of a pattern called the “maximin”. According to this pattern, some inequalities are justified if and only if they are necessary to maximize the situation of the least well-off²⁰. More precisely, just institutions should maximize the bundle of social primary goods attached to the lowest social position²¹. This is the second principle of justice:

Second principle: “social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*”²².

¹⁵ Van Parijs 1995: 48-51

¹⁶ Courtland 2014

¹⁷ Nozick (1974: 333-334); Van Parijs 1995: 21. Left libertarians play with the principle of original appropriation to justify an equal distribution of the value of natural resources (Arnsperger & Van Parijs 2003: 29-42).

¹⁸ Van Parijs 1995: 21-24. This debate is often framed in terms of negative and positive freedom (Courtland 2014).

¹⁹ Van Parijs 1995: 21. There are of course strong constraints to this, stated by the two principles of justice.

²⁰ Rawls 1971: 83; 2001: 39-50. I will explain this later in this Chapter, in Section 5.

²¹ Rawls 1993: 283-284; Van Parijs 1995: 25. I precise the requirements of the second principle in Chapter 2

²² Rawls 1971: 83; 2001: 39-50. Van Parijs (1991: 225) argues for an interpretation in terms of real freedom.

2 – How to justify a general presumption of formal freedom?

Whenever public institutions intervene, they restrict the formal freedom of someone. For instance, any public intervention requires at least some money that needs to be taxed from someone's income. Many interventions will also include restrictions on the use we can make of our resources or behaviors we can adopt. But even if public regulations restrict the formal freedom of some individuals, some of them are required if we want to protect other people's formal freedom and if we want to realize a just distribution of real freedom. Yet, there should be limits to public interventions. This has led some people to argue in favor of a general presumption of formal freedom. In this section, I will define this presumption of formal freedom. To do so, I will first dissipate possible misunderstandings. Then I will argue that such a presumption should be included in the requirements of the first principle.

Avoiding possible misunderstandings

As Joseph Raz notes, “the presumption of liberty is, indeed, sometimes presented as an uncontroversial common ground for all liberty lovers”²³. He thinks there are many problems with such a notion and abandons it himself. Raz rightly underlines at least three ways to understand a presumption of liberty or formal freedom that are misleading:

First, ‘A presumption of...’ is sometimes used to indicate that the burden of adducing evidence and marshalling arguments is on those who challenge the presumed view. It is often said that the presumption of liberty means that the burden of proof is on those who favour the restriction of liberty²⁴.

This first understanding is misleading because political liberalism requires citizens to provide public arguments to justify governments' action as well as omission. The requirement of public justification – the “burden of the proof” – thus falls on every citizen. It falls on people arguing for less public interventions restricting formal freedom as much as on people arguing for more²⁵. There is a second way to understand the concept of “presumption”:

‘Presumption’ in its second sense acts to sever the normal connection between belief and action... Absence of news of a person during seven years, say, is some evidence of his death. But it is weak and insufficient evidence. There could normally be many other equally plausible explanations of the absence of news. Nevertheless, it is allowed to create a presumption of death because it is adequate evidence of the existence of a practical need to act as if he is dead²⁶.

But of course, this second understanding of the presumption of formal freedom is also misleading. As Raz underlines, when we think about justice, we are not concerned with an urgent practical problem which has to be settled one way or another even if the evidence or information is insufficient. There is also a third understanding of the concept of “presumption:

In common discourse the term is often used in a third sense... When we say ‘presumably he has reached his home by now’ we indicate that what we know about his intentions, the weather, traffic conditions, etc. gives us reason to believe that he has reached home, and that reason is not refuted by anything we are aware of²⁷.

But as Raz underlines: “Does it simply mean that there is a reason which justifies, though it does not compel, a belief that denial or restriction of liberty is wrong? This claim is very weak, indeed it is so weak that it is no longer distinctively liberal, as many illiberal people will endorse it”.

²³ Raz 1988: 8. See also: Courtland 2014. As I said, I use “liberties” and “formal freedoms” interchangeably.

²⁴ Raz 1988: 8. Courtland (2014) also underlines this “burden of the proof” argument.

²⁵ Rawls 2001: 8-9; 26-29; 89-94

²⁶ Raz 1988: 10

²⁷ Raz 1988: 11

Based on these remarks, Raz abandons the idea of a general “presumption of liberty”. But if such a presumption cannot apply to what is required of individual actions, I think that when it comes to providing guidelines for institutional intervention, there is a meaningful justification for a “general presumption of formal freedom” or “against legal restrictions”.

Public institutions should respect a general presumption of formal freedom

As I said, the “burden of the proof” falls on every citizen, if they want to justify more public regulation as much as if they want to justify less of it. In other words, partners in the original position need to provide good public arguments for public intervention as well as public omissions to intervene. Yet, they would certainly agree that public institutions, as *institutions*, should respect a general presumption against any legal restriction that does not have *sufficient justification*. Indeed, unjustified legal restrictions would have unnecessary costs for everyone. This is why for Rawls: “there is, to be sure, a general presumption against imposing legal and other restrictions on conduct without sufficient reason”²⁸. As Freeman underlines, in a liberal framework, a “sufficient reason” is a public justification based on arguments that conform to the demands of public reason. These are arguments that could be accepted by everyone, whatever their personal conception of the good may be. In other words, they are the arguments that are acceptable by the partners in the original position²⁹. One possible justification is that for any social rule to be stable over time, it requires people to accept it.

Public institutions arguably need to respect a presumption of formal freedom. As an analogy, we can compare legislative institutions and courts of justice. Laws and trials are both the last resort aiming at solving social problems that cannot be solved otherwise. In the case of trials, even if both the prosecution and the defense need to make their case, the Court of justice, as a public institution, needs to respect the presumption of innocence and avoid condemning someone without sufficient evidence. Raz recognizes that “there is a strong case for invoking such a presumption whenever one is concerned with the working of institutions which decide, or act on, potentially controversial propositions and whose actions are likely significantly to affect the life of particular persons”³⁰. Similarly, in the case of legislative institutions in charge of implementing public regulations, even if every citizen has the obligation to justify his views about which set of public regulations should be implemented, legislative institutions should respect a presumption of formal freedom and avoid implementing restrictions on formal freedom without sufficient reason. This presumption of formal freedom can be expressed by a simple and intuitive principle:

The presumption of formal freedom: A public intervention is legitimate if and only if it is *necessary* to realize the principles of justice. An intervention is necessary if it is the *least intrusive* way to realize justice, compared to alternatives³¹.

The presumption of formal freedom leads to one main conclusion concerning legitimate public regulations. Suppose public institutions need to achieve a specific goal accepted by all, and suppose there are two possible sets of policies leading to realize this goal, one that restricts people’s formal freedom more heavily and one that restricts their formal freedom much less. The presumption of formal freedom recommends that public institutions should always choose the set of policies that *restricts people’s formal freedom the least*, or in other words, they should always choose the *least intrusive* set of policies to reach a given goal.

²⁸ Rawls 1993: 292

²⁹ Rawls 1993: 212-247; 2001: 157; Freeman 2007: 44, 51, 83

³⁰ Raz (1988: 9) also uses this analogy with the presumption of innocence.

³¹ This idea is close to the principle of proportionality in law. For instance: Maastricht Treaty (3b): “Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty”.

This principle is still very intuitive even if, of course, it is not always easy to evaluate when an intervention is more intrusive than another. I will come back to this at the end of the chapter. For now, in order to illustrate this intuition, let's take an obvious example. Suppose that public institutions want to make sure that car drivers do not ride on the sidewalk. This is a publicly justifiable goal since car-driving on sidewalks is dangerous for everyone. One policy option is to ban car-driving altogether. This would, of course, secure that no one drives on any sidewalk. But it is too intrusive because it is not *necessary* to reach our goal. There is a second, less intrusive way to reach the same goal. For instance, imposing a fine to car-drivers who ride on sidewalks may be a sufficient incentive to make sure people avoid this behavior. This second policy reaches the same goal by restricting individuals' formal freedom much less. Therefore, the presumption of formal freedom requires choosing the second.

3 – Which formal freedoms qualify as *basic* freedoms and what about their priority?

The first requirement of justice concerning restrictions on formal freedom is the presumption of formal freedom. It means that for *all kinds* of formal freedoms “there is, to be sure, a general presumption against imposing legal and other restrictions on conduct without sufficient reason”³². I have argued that according to this presumption, public interventions are legitimate if and only if they are *necessary* to realize the principles of justice. Now, Rawls also argues that some formal freedoms are more important than others. *Basic* formal freedoms, he thinks, should be distributed equally and should have a priority over other distributive goals such as the ones of the second principle. This standard view about the priority of the first principle over the second principle raises two important ambiguities. The first ambiguity concerns how to select basic formal freedoms and the other concerns the justification of their priority. In both cases, I will argue against the standard view.

The standard view about basic formal freedoms

The general presumption of formal freedom, or against legal restrictions, is valid for all kinds of formal freedoms. But there is the intuition that freedom of expression is somehow more important than the freedom to drive on the sidewalk. Rawls isolates some *basic formal freedoms*, or in his words “basic liberties”. In the case of basic formal freedoms, there is an *additional* criterion. For Rawls, basic formal freedoms should be distributed *equally*. This leads to a version of the first principle of justice, which can now be expressed as follow:

First principle: Public institutions should respect a general presumption of formal freedom and “each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which is compatible with the same scheme of liberties for all”³³ (*for instance, freedom of expression, assembly, association, conscience, bodily integrity...*).

Samuel Freeman expresses the *standard* interpretation of this first principle. Once a society is able to sustain a liberal constitution, basic formal freedoms can be restricted only for the sake of securing basic formal freedoms themselves. The priority of basic formal freedoms means that the exercise of basic formal freedom may be restricted only if this is needed to protect some other basic formal freedom, or leads to a greater overall scheme of basic formal freedoms. According to the standard view, this means that basic formal freedoms can neither be restricted for the sake of other, non-basic formal freedoms, nor for the sake of providing

³² Rawls 1993: 291-292

³³ Rawls 2001: 42

the poor with more real freedom (i.e. more opportunities and resources falling under the second principle)³⁴. Therefore, restricting freedom of expression in order to protect people from the dangers of false alerts or hate speech is justified as a way to protect their bodily integrity, but restricting freedom of expression in order to make the economic system more efficient is not justified for instance. I will criticize this standard view. Table 1 helps to understand how to distinguish the *standard view* from my *positional view*.

Table 1: First Principle	Restricting “BFFreedom 1” to protect equal “BFFredom 1” for everyone? ³⁵	Restricting “BFFreedom 1” to protect equal “BFFredom 2” for everyone?	Restricting a BFFreedom to protect another Non-Basic Formal Freedom ?	Restricting a BFFreedom to realize a just distribution of Real Freedom ?
Standard view	Acceptable	Acceptable	Not Acceptable	Not Acceptable
Positional view	Acceptable	Acceptable	Not Acceptable	Acceptable Iff the restriction is equal for everyone

The selection problem: What makes a formal freedom basic?

A first ambiguity in the standard view about basic formal freedoms concerns how to select which formal freedoms are *basic* and which ones are not³⁶. I will argue that the standard view about the selection basic formal freedom, based on the two moral powers, is mistaken. Instead, basic formal freedoms should be selected based on their positional character.

The *standard view* holds that a formal freedom should be considered basic if this freedom is essential to develop the two moral powers³⁷. However, if this reason could justify why some formal freedoms are more important than others, it does not justify why the first principle requires that basic formal freedoms should be distributed *equally*. Indeed, if public institutions, by creating some inequalities of basic formal freedoms, could somehow provide more moral powers to everyone or maximize the moral powers of the least well-off, there would be no reason to require their *equal* distribution. If this was true, there would be no need for two principles of justice. The only principle needed to define a just distribution of all goods, basic formal freedoms and other socio-economic goods such as income and capital, would be the second principle. Therefore, we need another argument to justify the intuition that basic formal freedoms are special and should be distributed *equally*.

Contrary to the standard view, the *positional view* holds that a formal freedom should be considered basic if it is extremely positional. Brighthouse and Swift underline that *goods are positional* if “one’s relative place in the distribution of the good affects one’s absolute position with respect to its value”³⁸. I would add that *goods are extremely positional* if your relative place in the distribution affects very importantly your absolute position. In that case, the more these goods are distributed unequally, the more value these goods have for people at the top of the distributive spectrum and the less value they have for the ones at the bottom.

³⁴ Rawls 1993: 356-363; Freeman 2007: 65-67

³⁵ “BFFreedom” stands for “Basic Formal Freedom”. “Iff” stands for “If and only if”.

³⁶ Freeman (2007: 73-74) underlines that there is an ambiguity here.

³⁷ Rawls 2001: 45; Freeman 2007: 81

³⁸ Brighthouse & Swift 2006: 472

The formal freedoms that would qualify as extremely positional are the ones for which small inequalities in the protection of these freedoms between two persons would have important effects on their absolute position with respect to the value of these formal freedoms. For instance, if the same restrictions on freedom of expression apply to my neighbor and me, we both enjoy the same political influence. But if my neighbor suddenly gets unrestricted expression (he can use false or negative ads while I cannot in an election), then he will have more political influence than me and the value of my freedom of expression will be reduced.

Basic formal freedoms: Basic formal freedoms are formal freedoms with the specific characteristic of being extremely positional.

If some formal freedoms are extremely positional, partners in the original position would agree that the first principle of justice should require their *equal distribution*. Indeed, if basic formal freedoms are extremely positional, it would be irrational for anyone to accept that others get more of them than what they get. More importantly, it would be irrational to trust any external authority with the power to make the demarcation between who will get more or less of these freedoms because the risk would be too high to end up one day in the category of persons that are excluded from a “fully adequate” scheme of basic formal freedoms.

What kind of formal freedoms qualifies as basic formal freedoms according to this definition? The list is basically the same as the one proposed by Rawls or Freeman. The difference with their position is the justification leading to this list. First, there are the freedoms associated with self-ownership, security and the capacity to practice our most important religious, philosophical and moral convictions. These freedoms are extremely positional. It would not be rational for anyone to accept that some people get more rights to life and bodily integrity or more protection of their freedom of conscience than the rights or protection they get themselves because the risk is too high that others will use this advantage to act against their interests³⁹. This is why it is rational for everyone to accept the establishment of strong and powerful public institutions in order to secure the right to life, bodily integrity and freedom of conscience of everyone equally. This is indeed the best way to make sure that we will not fall one day in the category of people that are denied protection.

But there is a second set of formal freedoms that should be considered basic. Precisely *because* public institutions need to be powerful, it is also rational for everyone to agree about implementing safeguards against the possibility that public institutions themselves use their power abusively. This is why the constitution needs to protect political freedoms and why it needs to implement safeguards against the action of governments. These are the freedoms that are supposed to secure political equality, democratic processes, and checks and balances⁴⁰. These freedoms are for instance the freedoms required for political participation such as freedoms of expression, participation and assembly, the freedoms and rights essential to personhood, including freedom of occupational choice, freedom of association and the right to property, and the freedoms and rights covered by the rule of law, including the protection against arbitrary arrest and the right to a fair trial. I will not get into details here⁴¹. Let's note that a constitutional requirement that basic formal freedoms should be secured equally to all people is in itself a good way of securing that public officials have an incentive to restrict basic freedoms as little as possible. Indeed, they have an incentive not to restrict basic freedoms too much because any restriction will also need to apply to them.

³⁹ Rawls 2001: 44-45. Freeman (2007: 75-76) thinks that the case of freedom of conscience is clear.

⁴⁰ Rawls 1993: 356-363; Brighouse & Swift 2006: 486. This is also why the basic formal freedoms of the first kind (such as bodily integrity) should apply to all human beings: we don't trust others to make the demarcation.

⁴¹ Rawls 1993: 356-363; Rawls 2001: 44-45; Freeman 2007: 46-51. A similar list of basic liberties such as freedom of expression or freedom of association is found in the *Universal Declaration of Human Rights*.

The examples I discussed above illustrate that in the case of basic formal freedoms, the main reason why they are extremely positional is that distributive inequalities between two groups create important inequalities of *power* and the possibility for the advantaged group to abuse and threaten the other. This is why distributive inequalities in terms of basic formal freedoms create important inequalities in the value of these freedoms for each group⁴². But a second reason can contribute to explaining why they are extremely positional. In democratic societies, these basic formal freedoms are regarded as securing our status as equal citizens and thus have a particular symbolic and expressive function. For instance, in England, when men could vote at an earlier age than women, this was expressing very loudly that women were not as intelligent or capable as men⁴³. As Rawls underlines, being deprived even partially of these basic formal freedoms has a very important impact on individuals' *self-respect*⁴⁴.

The positional character of basic formal freedoms does not simply explain why they are more important and should be distributed equally. It also explains why they should be *inalienable*:

Not only are government agents and democratic majorities precluded from violating basic liberties, but also citizens themselves cannot transfer them to others or bargain them away. The idea of the inalienability of basic liberties is not peculiar to Rawls but is a fixed feature of liberalism. No liberal government would enforce a contract whereby a person attempted to sell himself into slavery, or give up freedom of religion or freedom of speech⁴⁵.

The *positional* view provides two reasons for that. First, the fact that basic freedoms are extremely positional makes it irrational for anyone to give up their basic freedoms while others keep them. Second, more importantly, a liberal and democratic political system securing everyone's basic freedoms is precisely what prevents authoritarian governments to abolish the basic freedoms of everyone. Including political freedoms in the list of basic formal freedoms and making them inalienable is important to secure the strength of democratic checks and balances. If too many people give up on their basic freedoms, it would weaken the democratic system and checks and balances. Therefore, *equal basic freedoms* are not only important for self-centered reasons. They are important to secure everyone else's freedoms. Therefore, it is rational for everyone to forbid others to give up their basic freedoms⁴⁶.

The priority problem: How to understand the priority of the first principle?

A second ambiguity in the standard view about basic formal freedoms concerns their *priority*. What I said explains why they need to be distributed *equally*. But nothing yet argues in favor of their *priority* over other distributive goals. The standard view holds that the *priority* of basic formal freedoms means that restrictions on a basic formal freedom should be limited to the ones required for the protection of another basic formal freedom, or to secure a greater overall scheme of basic formal freedoms. This already means that basic freedoms are not absolute. To illustrate this point, Freeman uses the case of freedom of speech:

⁴² Rawls 1993: 356-363; Brighouse & Swift 2006: 486. Inequalities in basic formal freedoms such as freedom of expression create inequalities of power and power is certainly a positional good (Lovett 2010: 71-75)

⁴³ In general, unequal allocation of votes can create very important inequalities.

⁴⁴ Rawls 1993: 294-299; 2001: 104-114; Freeman 2007: 76

⁴⁵ Freeman (2007: 51) argues that basic formal freedoms should be inalienable.

⁴⁶ Let us note that, along with internal normative objections raised by adaptive preferences and feasibility objections raised by the impossibility to perform accurate aggregations of preferences, the external objection stressing the importance of the separation between persons (including the importance of securing basic formal freedoms) disqualifies *utilitarianism* and the principle of *average utility* as a credible public principle of justice (Rawls 1971: 14; Freeman 2007: 51). For Rawls (1971: 14): "Since each desires to protect his interests, his capacity to advance his conception of the good, no one has a reason to acquiesce in an enduring loss for himself in order to bring about a greater net balance of satisfaction".

It might be thought that freedom of speech is absolute if any basic liberty is. But a moment's reflection will show there are a number of necessary restrictions on freedom of speech to protect other rights and liberties. For example, people cannot incite others to riot or raise false alarms that endanger other's lives; nor can people engage in fraud, bribery, false advertising, or conspiracy to commit crimes, or threaten people's lives or libel them and destroy their reputation. These are all accepted restrictions on freedom of speech, normally recognized to protect other important rights, liberties and interests⁴⁷.

But in the standard view, it is not allowed to restrict basic formal freedoms in order to realize a just distribution of real freedom for instance. Many authors have criticized the *priority* of basic formal freedoms understood, as Rawls and Freeman propose, in the sense that "the only legitimate reasons for restricting the basic liberties are to maintain a more extensive scheme, or "fully adequate", of basic liberties"⁴⁸. They underline that in many cases, it seems that restrictions of basic formal freedoms should be justified even when they do not concern the protection of other basic formal freedoms. For instance, restrictions should be legitimate if they are necessary to realize the second principle and maximize the real freedom of the least well-off. Here are two preliminary examples to illustrate this point.

To continue with the example of freedom of speech, there are reasons to restrict this freedom in order to ban false advertisement. First, if an ad is plainly false and constitutes a fraud, Freeman argues that this is similar to outright theft and can constitute a violation of the basic right to property⁴⁹. But there is no basic freedom or fundamental right protecting us from being exposed to exaggerated ads, and as Freeman underlines, commercial misrepresentation to "puff up" products do not always rise to the level of a fraud. Yet, intuitively, there should be good reasons to regulate exaggerated advertisement because the economy is doing better without it⁵⁰. Restrictions on freedom of speech could seem legitimate in order to foster economic efficiency and maximize the resources distributed to the least well-off.

Freedom of association is another example. It is a basic formal freedom because associations of many sorts are crucial to enable people to protect their interests and advance their personal goals. If some are allowed to make associations and others are not, the former will have a strong capacity to organize and advance their political and economic interests at the expense of others. Yet, it seems legitimate for corporate law to restrict the content of freedom of association. The freedom of people to make trade associations in order to promote shared goals is restricted if some forms of associations are forbidden or if the terms of the association are dictated by law. In fact, most of corporate and competition law has nothing to do with protecting other basic freedoms. It rather has to do with protecting the interests of various stakeholders (such as shareholders and consumers) or the efficiency of the economic system. For instance, antitrust laws forbid associations that would reduce competition and raise prices. They restrict the formation of cartels, restrict the mergers and acquisitions and prohibit the creation of a monopoly in order to preserve a dynamic competition. These restrictions yield important advantages for the overall efficiency of the economic system, which can ultimately help to maximize the real freedom of the least well-off⁵¹.

The fact that such restrictions on basic formal freedom of expression or association do exist in our systems is not *per se* an argument for saying that it is legitimate. But these regulations

⁴⁷ Freeman 2007: 52

⁴⁸ Freeman 2007: 52. See also: Rawls 1971: 244. For critics, see: Taylor 2003: 247

⁴⁹ Freeman 2007: 67. There are also reasons to ban advertisement to children for instance.

⁵⁰ Freeman 2007: 70-71

⁵¹ Anderson (2015: 48) underlines how current laws restrict formal (negative) freedom for equality purposes.

seem legitimate and seem to pass the test of public justification. For instance, most actors in today's political debate, free marketers, and socialists alike, would probably support antitrust laws. Therefore, we need to make sense of the intuition that, even in the case of basic formal freedoms, some restrictions are legitimate in order to realize other distributive goals.

Rawls and Freeman are well aware that there are difficult cases in which it is not clear how to specify when it is legitimate to restrict a basic formal freedom and when it is not. The standard solution offered by Rawls to this problem is to introduce the notion of "central range of application" of basic formal freedoms:

In adjusting the basic liberties, we need to distinguish between their restriction and their regulation. The priority of these liberties is not infringed when they are merely regulated, as they must be, in order to be combined into one scheme. So long as what we may call "the central range of application" of each basic liberty is secured, the two principles are fulfilled⁵².

The "central range of application" is assumed to be the area of exercise of a basic formal freedom that is essential to realize the two moral powers⁵³. Using the example of freedom of speech, Freeman underlines how this helps to distinguish between restrictions and regulation:

"Rawls addressed this sort of problem by distinguishing between 'restrictions' and 'regulations' of speech", but he notes that "a problem remains, however, in deciding when such regulation of expression are reasonable and at what point regulation of time, place, and manner of speech shades over into impermissible restriction on the content of speech"⁵⁴.

The problem with Rawls' solution is the absence of a liberal criterion to make the demarcation between which aspects of our freedom fall into the "central range of application" of basic formal freedoms and which aspects do not⁵⁵. There may be reasonable disagreements on this issue. For instance, one might think that the "central range of application" of freedom of association does not include freedom of commercial association. Public institutions would thus be allowed to restrict freedom of commercial association for distributive purposes. Rawls even suggest that justice may require regulating firms quite heavily in order to promote worker-managed firms for instance⁵⁶. By contrast, Tomasi argues that the first principle should not only protect basic political freedoms but also some basic economic freedoms⁵⁷. Indeed, if someone values the freedom of organizing his life independently from others, as much as possible, he may find restrictions on freedom of commercial association imposed by corporate law unacceptable. Even if we assume that inequalities in freedom of commercial association have no *political* importance, they may be important for many people's *self-respect*. Therefore, Rawls' solution to identify legitimate restrictions of basic formal freedoms seems to be illiberal and thus inadequate.

I propose another solution that provides a liberal criterion to identify acceptable and unacceptable restrictions of basic formal freedoms such as freedom of speech or association. If the reason why we should consider some formal freedoms to be basic is that they are extremely positional, this leads to conclude that their *priority* should be understood as applying *not* to basic formal freedoms *as such*, but only to their *equal distribution*. This solution seems to be suggested by Rawls himself in an ambiguous statement:

⁵² Rawls 2001: 111

⁵³ Freeman 2007: 69-72

⁵⁴ Freeman 2007: 68

⁵⁵ Freeman (2007: 69-79) raises difficult cases.

⁵⁶ Rawls 2001: 178-179

⁵⁷ Friedman (1962: 13, 32) or Tomasi (2012: 48-49) are advocates of economic freedoms. Scott (2014: 84-100) also underlines that the ideal of owning his own means of survival or economic business is very widespread.

No priority is assigned to liberty as such, as if the exercise of something called “liberty” has a preeminent value and is the main if not the sole end of political and social justice. There is, to be sure, a general presumption against imposing legal and other restrictions on conduct without sufficient reason. But this presumption creates *no special priority for any particular liberty*⁵⁸.

This seems (oddly) to imply that if there is a general presumption of formal freedom or “against legal restrictions”, there is *no priority for any particular formal freedom or “liberty”* as such. This would mean that public institutions are legitimate to restrict any formal freedom, even basic formal freedoms, whenever there is a sufficient reason, which means whenever it is necessary to realize publicly acceptable goals such as a just distribution of real freedom. The only additional criterion in the case of basic formal freedom is that they should be distributed equally. In fact, in many places, Rawls actually states this idea: “by the priority of liberty I mean the precedence of the principle of *equal basic liberties*”⁵⁹. This would mean that the priority does not apply to the set of basic freedoms *as such* but only to the requirement of their *equal* distribution. This is certainly in tension with some other statements made by Rawls himself and the purpose of this discussion is not exegetic.

But the main advantage of this unorthodox interpretation of the priority of the first principle is that it provides a solution to the difficult cases raised above while avoiding the problem of making a necessarily illiberal demarcation between “important” and “unimportant” aspects of our basic formal freedoms. In short, according to this unorthodox view, there would be only two conditions for restricting basic formal freedoms. First, restrictions of basic formal freedoms are legitimate if and only if they are limited to what is *necessary* to realize the principles of justice, because of the presumption of formal freedom valid for all formal freedoms including basic formal freedoms. Second, restrictions on basic formal freedoms are legitimate if and only if they are *equally* applied to everyone because basic formal freedoms are extremely positional. Therefore, public institutions can modify the content of any basic formal freedom, even for the purpose of realizing a just distribution of real freedom, but only if everyone gets an equal set of basic formal freedoms. For instance, public institutions cannot protect freedom of association for white people and not for black people, but they can restrict its content for both equally if this is necessary to realize a just distribution of real freedom⁶⁰.

Perhaps the best illustration of this idea is the basic right to vote. It is rational for everyone to want a say in political decisions that is more or less proportional to how they are affected by such political decisions. First, this is the best way to make sure that political decisions represent the best interests of everyone. Second, it is also the way to make sure that citizens can exercise scrutiny over political authorities and prevent any abuse by public officials seeking personal benefits at the expense of the population. Yet, a direct democratic system in which all citizens would participate directly in political decisions affecting them may not maximize the real freedom of the least well-off because it may be too costly. Indeed, direct democracy could reduce the production of the resources people need to live their lives.

This is why everyone could accept some degree of democratic representation that restricts their participation in political decisions. It would thus be legitimate to reduce the scope or the content of the right to vote in order to produce efficiency gains required to maximize the real freedom of the least well-off. Like in the cases of freedom of speech or freedom of association, what is important here is only that any restriction on the right to participate in

⁵⁸ Rawls 1993: 291-292 (*my italics*). See also: Rawls 2001: 44

⁵⁹ Rawls 1971: 244 (*my italics underline that the priority applies to the requirement of equality*); Rawls 1993: 295

⁶⁰ Rawls (2001: 44-50) often refers to the principle of “*equal basic liberties*”.

political decisions should apply *equally* to everyone. Partners in the original position could not accept inequalities in the right to participate in political decisions affecting them because such inequalities would create important inequalities of power over these decisions and could have enormous consequences on the distribution of the advantages of social cooperation⁶¹.

Basic formal freedoms should be understood to be general freedoms or general rights that should be distributed equally. Yet, their content can be determined collectively based on various considerations, including the concern for a just distribution of real freedom. Freedom of speech and association, the right to vote or the right to property, for instance, are “general” basic freedoms or rights, in the sense that people need to enjoy them equally. But their content, meaning the kind of speech that is allowed in various situations, the conditions that make an association acceptable, the frequency at which people have the right to vote on public decisions and the amount of property that is considered as rightfully ours, can all be decided collectively based on considerations that can include distributive concerns⁶².

Let me quickly note that this unorthodox interpretation also helps to solve another related ambiguity in the standard interpretation of the first principle. It is not central to my argument here but is still important to mention it. Philippe Van Parijs thinks that the priority of basic formal freedoms must be “flexible” because otherwise there would be no resources left for the second principle. For instance, the equal protection of the right to property requires a police system to get rid of thugs and thieves, “but a police state or abysmal poverty is not a price worth paying in order to get rid of every one of them”⁶³. Therefore, it may be justified to give up on the conditions of a full exercise of this basic freedom in order to make efficiency gains and maximize the real freedom of the least well-off⁶⁴. The problem is that Van Parijs provides no principle to evaluate when this “flexibility” is acceptable and when it is not.

The unorthodox view of the first principle I propose also turns out to provide a principle to evaluate when this flexibility is acceptable. Because basic formal freedom can be restricted if and only if they are *necessary* to realize distributive goals, and because the priority of the first principle only applies to their *equal* distribution, the protection of a higher level of equal basic freedoms is only justified as long as it is neutral or contributes to the real freedom of everyone, including the least well-off. But a higher level of equal basic freedoms ceases to be justified as soon as it reduces the overall real freedom of the least well-off.

Main objection and refutation

This unorthodox view of the first principle of justice is controversial. One possible objection to the idea that the priority of the first principle does not apply to formal freedom *as such* but only to the requirement of their *equal distribution* is the following. Someone could worry that such a principle would justify reducing the freedom of everyone equally, but to unacceptably low levels, in order to boost efficiency and maximize wealth for instance.

⁶¹ For Rawls (2001: 138) regimes restricting political representation too much are obviously unjust.

⁶² Van Parijs 2003: 223. Waldron (1990) explains the difference between “general rights” and “special rights”. For him the “right to property” is a general right in the sense that it secures people from arbitrarily expropriated *once something has been accepted to be rightfully ours*. But there is not special right to property because institutions are legitimate to decide what counts as *our property* (what can be considered “rightfully ours”). It is also interesting to note that the main justification for a general right to property is based on efficiency concerns. Public institutions need to secure the property of people against arbitrary expropriation or theft, once acquired legitimately, because it is a condition for people to engage in economic enterprises and to trust that their efforts to acquire property will not be arbitrarily destroyed in the future (De Sotro 2001).

⁶³ Van Parijs 1995: 26. See also: Van Parijs 2003: 226

⁶⁴ For more on the relation between formal freedom and real freedom, see: Chapter 1, Section 5

Let me take an example. Suppose there is empirical evidence demonstrating that a dictatorial communist system, restricting democratic freedoms (because democracy makes it too slow to implement economic policies) and frequently expropriating people (in order to use resources more effectively), is much more efficient than democratic free market alternatives⁶⁵. Someone could worry that, under my unorthodox version of the first principle, public institutions would be legitimate to reduce drastically everyone's formal freedoms to very low levels in order to maximize economic efficiency. This seems very counterintuitive.

But such a worry would be a mistake because the requirement of *equal distribution* of basic formal freedoms alone is already very demanding. First, it is easy to dismiss any example involving a dictatorship because, obviously, a dictatorship reduces everyone's freedom except for the dictator. Therefore, no dictatorship respects the requirement of *equal* basic formal freedoms. Second, democratic systems and checks and balances supposed to secure equal basic formal freedoms require very high levels of basic political freedoms such as freedom of speech, political participation, assembly, vote, etc. Citizens need a very high level of basic political freedoms in order to keep the power to act in the eventuality of an abuse-of-power by elected officials. This is why Rawls adds that in the case of *basic political freedoms* (and *basic political freedoms only*) public institutions should secure their "fair value" which means that they should spend resources to make sure people can use effectively their political freedoms and reduce socio-economic inequalities to secure effective political equality⁶⁶.

Therefore, the threshold under which the level of basic freedoms becomes unacceptable is already very high under my unorthodox interpretation, simply thanks to the requirement of *equal distribution* of basic formal freedoms. Reducing basic formal freedoms to very low levels would be a threat to the stability of democratic institutions and to the checks and balances supposed to secure their equal distribution.

4 – Are there other reasons to avoid restrictions of formal freedom?

To sum up what has been argued so far, there is to begin a general *presumption of formal freedom* that requires public institutions to choose the *least intrusive* way to realize justice. *Basic* formal freedoms need to be isolated because they are *extremely positional*. Therefore, it is irrational for anyone to let public authorities create inequalities in terms of basic formal freedoms. This is why in their case, there is an *additional criterion*. Public institutions should secure their *equal distribution*. There is no priority assigned to any particular formal freedom but there is a *priority* assigned to the *equal distribution* of basic formal freedoms over other distributive goals. Therefore, institutions can restrict a basic formal freedom, in an *equal* way for everyone, if necessary to realize a just distribution of real freedom, but they cannot create *inequalities* of basic formal freedoms for the same purpose.

Now, one could wonder if there are other reasons to avoid restrictions of formal freedom. In the debate about the legitimacy of public regulation, one preoccupation seems to come back very often. Some people argue that public institutions should only be allowed to regulate the institutions that are part of the "basic structure of society". Institutions that would be considered outside the basic structure of society such as the family or the firm would,

⁶⁵ Of course, there are strong reasons to doubt that this is the case (Van Parijs 1995: 186-233)

⁶⁶ Rawls 2001: 148-152; Brighouse & Swift 2006: 486. For Rawls, the "fair value" is denied for all other basic formal freedoms (or liberties) (Rawls 2001: 150-152). Reducing wealth inequalities secures effective political equality but too large inequalities threaten political equality (Stiglitz 2012: 181-212, Gilens & Page 2014).

therefore, be immune from public regulation. This conception would thus propose additional reasons to avoid restrictions of formal freedom. I will argue that this conception is misleading.

Institutional conceptions of justice and the question of the “basic structure”

Institutional conceptions hold that principles of justice only apply to public institutions, not directly to individuals’ daily actions. Public institutions should secure that the aggregate result of individual actions ends up realizing justice. There are at least three reasons given in the literature to justify why individuals should realize justice *through* public institutions instead of on their own. First, public institutions can provide guarantees for democratic legitimacy and accountability. Second, public institutions often have an overview of the situation and more information. They are therefore better equipped to coordinate actions than individuals, and they can design coherent, efficient policies. An institutional approach is necessary to evaluate whether, all things considered, an action contributes or not to justice. By contrast, most citizens lack the information and power to act efficiently. Third, public institutions and regulations provide legal safeguards and checks and balances guaranteeing the stability of justice over time. Only public institutions and laws, not trust in individuals’ good will, provide guarantees that just policies and social protections will not disappear over time⁶⁷.

These three reasons lead Rawls to say that the primary subject of justice is the “basic structure of society”, which he takes to be a set of important social institutions, “because its effects are so profound and present from the start”⁶⁸. He gives some precisions:

For us, the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions, I understand the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions⁶⁹.

Such an institutional conception of justice has raised two main debates. The first debate raises an *external objection* and wonders if an institutional conception of justice is really justified or if principles of justice should also guide individuals’ daily decisions. Cohen, for instance, thinks that individuals have the personal moral obligation to make sure that their daily decisions and life choices are guided by the principles of justice⁷⁰. I *will not* discuss this issue here and I will assume that an institutional conception of justice is justified.

The second debate takes place *within* an institutional conception of justice and wonders which institutions should be included in the basic structure of society. Some authors hold that, if public institutions should only be allowed to regulate the institutions that are part of the basic structure and not the ones outside the basic structure of society, it becomes important to know which institutions are part of or excluded from this basic structure. For instance, can public institutions regulate private associations such as families or firms? Rawls seems to be open to regulating families and firms while other authors are not⁷¹. As Schouten says:

It is not altogether clear what Rawls intends the basic structure to include. Generally, he includes just those institutions that are part of the system through which the state coercively limits the freedom of individuals. But when discussing his rationale for the basic structure restriction, he commits himself

⁶⁷ I will not discuss this. See: Rawls 2001: 12-15, 32, 54; Van Parijs, in Freeman 2003: 229. Cf. Introduction

⁶⁸ Rawls 1971: 7

⁶⁹ Rawls 1971: 7

⁷⁰ Cohen 2008: 27-86, 151-180

⁷¹ Rawls 2001: 162-168, 178-179; Blanc & Al-Amoudi 2013; Schouten 2014: 357-360, 387-388

to what some have argued is a more expansive notion of the basic structure, which includes any major social institution that profoundly influences citizens' life prospects... As Cohen points out, noninstitutional mechanisms can exert just as profound an impact on citizens as political institutions [therefore, this view] restricts the purview of justice in a way that is arbitrary⁷².

I will argue that the presumption of formal freedom and the first principle requiring the equal distribution of basic formal freedoms are the only two requirements public institutions need to respect when they want to restrict formal freedom. The idea of a “basic structure” offers no additional reason to avoid restrictions of formal freedom. In fact, the second debate about which institutions are part of the basic structure or not is misleading. The two requirements mentioned earlier do not single out any institutions as being immune from public regulation.

The idea of “basic structure” offers no additional reason to avoid restrictions

The presumption of formal freedom says that restricting formal freedom is legitimate if and only if it is *necessary* to realize the two principles of justice and thus recommends that public institutions should always choose the *least intrusive* set of policies able to achieve this goal. The presumption does not pinpoint any institutions as being untouchable. The additional requirement of *equal distribution* applying to basic formal freedoms does not change anything or restrict in any way the scope of legitimate intervention. It only regulates the way in which public institutions can intervene when basic formal freedoms are concerned. Therefore, the first principle does not pinpoint any institutions as being immune from public regulations.

A liberal conception of justice can hardly provide another reason to avoid restrictions on formal freedoms in general and basic formal freedoms in particular. Indeed, the value attached to various institutions depends on everyone's personal conceptions of the good. There are reasonable disagreements about the value of institutions such as families, firms or other forms of associations. Some may think that the family is a “sacred” institution that public institutions should refrain from regulating, or instead, that the fact that it is sacred should justify strong public intervention to protect it. Others may think that regulating the family is acceptable for other reasons⁷³. The same goes for firms. As I already said, some people value the freedom of creating the type of firm they prefer while others believe this freedom has no special value⁷⁴. A liberal conception of justice should not justify the legitimacy of public intervention on such personal conceptions of the good, but only on publicly acceptable principles of justice. Therefore, without the existence of public liberal arguments justifying why some institutions should be granted immunity it seems that the presumption of formal freedom and the priority to the equal distribution of basic formal freedoms remain the only two relevant criteria to identify which public interventions are legitimate.

If we are coherent with liberal commitments, the whole debate about which institutions are included in or excluded from the “basic structure” disappears. Liberal egalitarian principles should not distinguish between institutions that should be included (such as the constitution or the legal system) and others that should be excluded (such as the family or firms) because of intrinsic characteristics, and regardless of the consequences of their regulation. The basic structure is simply the set of collective rules that happens to be, all things considered, the ones necessary to realize the principles of justice in a stable way. Thus, the way to identify “what is the basic structure” is not to look at some existing institutions and wonder if they are part of the basic structure or not. The way to identify the basic structure is to implement the set of

⁷² Schouten 2014: 357-360. She refers to Cohen's famous critique (Cohen 2008: 27-86, 116-150, 151-180).

⁷³ Rawls 2001: 162-168, 178-179; Blanc & Al-Amoudi 2013; Schouten 2014: 357-360, 387-388

⁷⁴ Rawls 2001: 178-179; Blanc & Al-Amoudi 2013

rules that are necessary (meaning the least intrusive) to realize the principles of justice, and then, *this* is your basic structure. If the least intrusive set of rules able to realize justice includes regulations of the family, then these aspects of the family are in the basic structure. If regulating the family is unnecessary, then the family is outside the basic structure⁷⁵.

In practice, if public institutions want to restrict formal freedoms the least as possible while still realizing distributive principles of justice, it is a generally good strategy to focus on the most important institutions and, in Rawls' terms, the ones for which their "effects are so profound and present from the start"⁷⁶. But the mistake consists in thinking that Rawls meant these remarks to single out institutions because they would be somehow *intrinsically* different. But the reason to focus on the most important institutions is simply *instrumental*. It is more efficient for the ratio "restrictions on formal freedom" / "realization of justice". Regulating central institutions having pervasive effects on important aspects of individuals' freedom is a good way to minimize the restrictions on formal freedoms while maximizing the distributive benefits. It is simply more efficient than regulating a myriad of other, less important institutions, with the risk of being much more intrusive only to reach the same distributive outcome. This is why the best strategy is to focus on the regulation of major institutions such as the political constitution, the justice system and the main economic and social arrangements such as competitive markets and property of the means of production.

5 – Case-study: Should public institutions regulate economic organizations?

In order to give some flesh to the position defended in this chapter and in order to understand what kind of arguments would be required to justify restrictions on formal freedom under this framework, I will now analyze one case-study: the legitimacy of public interventions to regulate the governance of economic organizations.

Do regulations of economic organizations constitute restrictions of formal freedom?

Defenders of minimal states hold that formal freedom is of paramount importance and admit only very small infringements on formal freedom⁷⁷. Liberal egalitarians disagree and argue instead that what is important is real freedom. Restrictions of formal freedom can be legitimate if it is necessary to maximize the real freedom of the least well-off for instance⁷⁸. But this does not mean that real freedom erases the importance of formal freedom and that nothing can be said about legitimate and illegitimate infringements on formal freedom. I argued that it is legitimate to hold that public policies should be the least intrusive as possible even when it comes to realizing a just distribution of real freedom.

But it is important not to dismiss the importance of formal freedom. Anderson seems to make this mistake. She notes that debates such as the one about the regulation of workplaces, often involve arguments about which restrictions of formal freedom are legitimate or not:

Current U.S. laws impose many negative liberty restraints on employers with respect to employees. They may not discriminate by race, gender, religion, or age. They must pay minimum wages to most employees, and pay overtime to those working more than forty hours per week... They must bargain in good faith with any labor union their employees elect to represent them, and may not fire any employee for joining it or urging others to do so. They

⁷⁵ This is a generalization of the argument developed by Schouten (2014: 357-360, 387-388, 387-388)

⁷⁶ Rawls 1971: 7; 2001: 10-12

⁷⁷ Nozick 1974: 333-334; Tomasi 2012: 190-191. See also, Van Parijs 1995: 21

⁷⁸ Van Parijs 1995: 21

are subject to workplace safety standards... These laws are justified at least in part in terms of equality: antidiscrimination laws directly aim to secure equality among workers; unionization laws aim to equalize workers' bargaining power with employers; other laws aim to correct for unequal bargaining power⁷⁹.

She underlines that these regulations are often useful to secure equal basic formal freedom (such as antidiscrimination laws) but also a just distribution of real freedom (such as unionization aiming at equalizing workers' bargaining power). She also underlines that opponents to these laws oppose them because they restrict formal freedom:

Opponents of such laws object not only that they interfere with the liberty of employers, but that they interfere with the liberty of workers. "Right to work" laws, which forbid contracts between employers and labor unions that require all employees to pay dues to the union in return for its (legally mandated) bargaining on behalf of all, are framed as defenses of workers' liberty"... John Tomasi complains that minimum wage and maximum hour laws interfere with the "freedom of individuals to negotiate personally the terms of their employment," and disparages labor unions for diminishing individual agency in this regard⁸⁰.

But Anderson makes an important mistake. Instead of acknowledging that public regulations such as minimum wage or maximum hour laws *are* restrictions of formal freedom (but perhaps legitimate ones), she argues that these regulations should not even be considered as interferences of public institutions in free labor markets:

the fundamental normative issues concerning the relation of freedom to equality at work do not lie in arguments about the voluntariness of the labor contract. They lie in arguments about the legitimate form of government of productive enterprises. Since the state is needed to set that form, when it does so by reserving specific rights to workers in labor contracts, this does not amount to "interference" in free labor markets⁸¹.

The mistake here consists in not accepting that regulating labor contracts or forms of governments within productive enterprises constitutes restrictions of formal freedom and thus "interferences" in free labor markets. They do. But these are legitimate restrictions of formal freedom as soon as it is proven that they are *necessary* to realize the principles of justice, including maximizing the real freedom of the least well-off.

When is it justified to regulate the governance of economic organizations?

In our societies, economic organizations and markets are heavily regulated, whether it is to protect the basic freedoms of various stakeholders such as shareholders, workers or consumers, to secure the welfare state, or simply to compensate for market failures. Efficient markets can only exist thanks to public regulations⁸². In order to evaluate what kind of argument is needed to justify a regulation, I will use the case of public interventions to regulate the governance of economic organizations. Democratic decision-making is only one characteristic of what I will later refer to as egalitarian organizations. But it will serve here as an example to understand how to justify public intervention restricting formal freedom. Therefore, the question is: should public institutions promote workplace democracy?

Democracy seems justified in public institutions such as states, partly for the reasons sketched out earlier. But democracy is not necessarily the right decision-making procedure to

⁷⁹ Anderson 2015 : 48

⁸⁰ Anderson 2015 : 48

⁸¹ Anderson 2015 : 50-51

⁸² Stiglitz & al. 2007: 223; Néron 2010: 10

implement in every private organization. Economic organizations may be exempted from democratic requirements. Indeed, imposing democratic structures to economic organizations such as firms could prove to be inefficient. This would undermine the realization of other requirements of justice such as maximizing the real freedom of the least well-off. Therefore, hierarchical and undemocratic structures in firms could even be *useful* to realizing a just distribution of real freedom⁸³. Moreover many private associations such as philately clubs do not have sufficient impact on people's lives to require public interventions. At first sight, it may seem justified to respect individuals' formal freedom and let them create or join which association or firm they see fit, without imposing democratic decision-making structures to associations. If public institutions want to realize a just distribution of real freedom, they should use other tools and refrain from regulating the governance of economic organizations. For instance, they can use redistributive taxation and fund public welfare programs.

Indeed, the presumption of formal freedom is very restrictive. According to this principle, for a set of policies to be legitimate, it is not sufficient to show that it has, *in some way*, positive outcomes in terms of distributive justice because there might be less intrusive alternatives to reach the same positive outcomes. A conclusive argument needs to demonstrate that, all things considered, this set of policies is *necessary* to realize these goals, such as maximizing the real freedom of the least well-off. There must be no other *less intrusive* alternative to do so. Only then would implementing this set of policies be justified.

For instance, for public institutions to be legitimate to intervene and force all firms to adopt democratic decision-making structures, we do not only need to show that democratic structures can contribute to the real freedom of the least well-off. We need to demonstrate that it is the only way to do so because redistributive taxation or other welfare programs are not sufficient to maximize the real freedom of the least well-off. We would need to demonstrate that authoritarian decision-making structures in economic organizations are so bad for individuals' real freedom that they *need* to be regulated. Therefore, we must provide an argument proving that there is *no less intrusive alternative* to realize distributive justice. The obvious question is then the following: when is an intervention more intrusive than another?

When is an intervention “more” or “less” intrusive than another?

Inevitably, there will be hard cases in which it will be very difficult to compare the relative intrusiveness of two public policies. I have no simple solution to offer for this problem and this would require further research. But despite the absence of solution here, there are still two ways to avoid this problem. First, in some cases, the comparison will be easy. It will make sense to say that one set of public policies is obviously more intrusive than another because the regulations involved in the former makes people enjoy fewer opportunities than the ones involved in the latter. This was the case in the example used in the beginning of this chapter about public intervention to prevent car driving on sidewalks. For these easy cases, a very precise comparison method to measure the relative intrusiveness of two policies is not necessary to make a decision because one policy is obviously more intrusive than the other.

But second, and more importantly, in situations in which it is difficult to say for certain whether one set of policies is more intrusive than the other, one way to avoid the problem is simply to demonstrate that one set of policies is really necessary to realize the principles of justice. Indeed, the presumption of formal freedom says that public institutions are legitimate to restrict formal freedom if and only if the restriction is necessary to realize justice. The

⁸³ This is in fact the argument of Tomasi (2012: 190-191). I will criticize this argument in this thesis.

conditionality goes in both directions. Therefore, if a restriction is necessary to realize justice, then the restriction on formal freedom is legitimate, no matter if it is more or less intrusive than the alternative. If it is demonstrated that one set of policies is really necessary to realize the principles of justice, a precise comparison method is not necessary either. This second strategy is the one I will adopt in this thesis.

Conclusion – Restrictions to basic formal freedoms are allowed when necessary to realize a just distribution of real freedom

In Chapter 1, I have underlined that liberal egalitarianism needs to develop convincing arguments in order to justify public regulations limiting the formal freedom of individuals. If everyone can understand why some restrictions of formal freedom are important in order to coordinate social cooperation and produce useful resources to secure everyone's *real freedom*, public institutions should not be allowed to regulate without restrictions all aspects of individuals' behaviors. There should be limits to public intervention. This raises the issue of the scope and limits of legitimate public intervention. The standard view on this issue holds that there is a priority of the first principle over the second, i.e. restrictions on one basic formal freedom are only allowed in order to protect other basic formal freedoms but not in order to realize a just distribution of real freedom. But this standard view faces important problems. In this chapter, I focused on the following question: *Should restrictions to basic formal freedoms be allowed when necessary to realize a just distribution of real freedom?*

The *results* are the following. I argued for a general presumption of formal freedom. According to this principle, a public intervention is legitimate *if and only if* it is *necessary* to realize justice, which means that there is no *less intrusive* alternative to do so. This means that public intervention is legitimate whenever it is necessary to realize justice. In the case of basic formal freedoms, I argued against the standard view and for the positional view, holding that basic formal freedoms are basic because of their strong positional character. As a consequence, their priority should not apply to basic formal freedoms *as such* but can only apply to their *equal* distribution. In other words, restricting the content of all formal freedoms should be allowed when necessary to realize a just distribution of real freedom. The only additional requirement for *basic* formal freedoms is to restrict them in an *equal* way for everyone. Therefore, institutions cannot create inequalities of basic freedoms, such as depriving some religious groups of basic rights, even if this could help in some way to realize other principles such as maximizing the socio-economic situation of the least well-off.

I conclude that from a liberal point of view, no other reason can forbid restrictions on formal freedoms in general and basic ones in particular. Therefore, public institutions are legitimate to regulate any aspect of individuals' lives *as soon as* it is really *necessary* to realize justice. The priority of the first principle only adds a criterion restricting the kind of intervention allowed for basic freedoms but does not single out any institution for being protected from any regulation. This dissipates the whole debate about which institutions are included in or excluded from the so-called "basic structure of society". In my view, no institution is, intrinsically, part of or excluded from the basic structure just because of what they are (families, firms) and regardless of the consequences of their regulation.

The *contribution* of this chapter consists in revisiting the priority of the first principle of justice managing public interventions restricting formal freedom. The case-study analyzing the legitimacy of public intervention to regulate the governance of economic organizations helps to understand how to use this interpretation of the first principle in order to make policy recommendations. This will be particularly useful in the following steps of this thesis about public intervention to promote egalitarian organizations.

When evaluating the legitimacy of public interventions, it is important to always keep in mind the possible existence of *less intrusive* alternatives. Public institutions should always choose the *least intrusive* way to realize their distributive goals. I underline this point because one central issue in this thesis will consist in evaluating whether public interventions to promote egalitarian organization are really *necessary* to realize justice, or whether there are *too intrusive* because *less intrusive* alternatives succeed in achieving the same distributive goals.

What's next? Now that the distinction between formal and real freedom is settled and that the principles dealing with legitimate restrictions of formal freedom are established, liberal egalitarianism needs to specify how exactly are we to evaluate what is *necessary* to realize a just distribution of real freedom. The first step to do so is to answer the following question: *what is a just distribution of real freedom?* In Chapter 2, I propose a *metric* to measure real freedom, a list of *social primary goods* to serve as proxies for authorities to monitor progress towards justice, and I specify what should be the *pattern* of distributive justice.

Chapter 2

Real Freedom and the Second Principle

What is a just distribution of real freedom?

Justice is the first virtue of social institutions... social cooperation makes possible a better life for all than any would have if each were to live solely by his own efforts... the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.

John Rawls (1971: 3, 4, 7) – *A theory of justice*

Introduction

Most liberal egalitarian conceptions of justice hold that public institutions should respect everyone's freedom to pursue their conception of the good and distribute the means of freedom. As I explained in Chapter 1, just institutions should respect a general presumption of formal freedom or against legal restrictions. Just institutions should also secure an equal set of *basic formal freedoms* to everyone. This leads to a version of the first principle:

First principle: Public institutions should respect a general presumption of formal freedom and "each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which is compatible with the same scheme of liberties for all"¹ (*for instance*, freedom of conscience, bodily integrity, freedom of expression, assembly, association...).

I will now turn to what justice requires from the distribution of *real freedom*. Indeed, someone with the *formal freedom* of speech, for instance, will not have any *real freedom* to exercise it and realize his ends if he is starving. Therefore, public institutions should secure a just distribution of the means of *real freedom*, meaning the material and personal means allowing people to pursue their conception of the good life. Therefore, I will investigate what should be the *metric* and the *pattern* guiding the distribution of the burdens and benefits of social cooperation. I argue for a specific *metric* and a *pattern* according to which public institutions should maximize the bundle of social primary goods attached to the lowest social position². This is one way to understand Rawls' second principle of justice:

Second principle: "Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*"³.

¹ Rawls 2001: 42

² Rawls 2001: 39-50; Van Parijs 1991: 225. This is only one possible metric among many others

³ Rawls 1971: 83 (*my italics*)

Rawls lists basic formal freedoms among the “goods” to be distributed fairly. In Chapter 1, I explained why their distribution should be regulated by the first principle. First, like any other formal freedom, they are protected by the general presumption of formal freedom. Regulations restricting any formal freedom need to be limited to the one necessary to realize the two principles of justice. Second, for *basic* formal freedoms, there is an additional criterion: there is a priority to their *equal* distribution⁴. Therefore, the first principle does not only specify the conditions to restrict basic formal freedoms, it also deals with possible tensions between basic formal freedoms and the distribution of other socio-economic goods⁵.

Rawls’ second principle deals with the distribution of *real freedom*, which means the distribution of the *material and personal means* of freedom which can be distributed unequally under some specific conditions. However, some burdens of cooperation, which consist of human activities that individuals would not do voluntarily, are necessary to produce socio-economic benefits. Therefore, public institutions may need to distribute benefits in a way that incentivizes individuals to take on some burdens in order to foster efficiency⁶. This raises the following question: *What is a just distribution of real freedom?*

In Chapter 2, I will specify the requirements of the second principle by answering two underlying questions. First, *what is real freedom and how to specify a precise metric?* Indeed, we need to measure real freedom and compare the value of various material and personal means of freedom. Second, *what is a just pattern for the distribution of real freedom?*

First, I will investigate what real freedom is and specify which precise *metric* we should adopt. If real freedom is (broadly) the metric of justice, we need to be able to measure individuals’ real freedom in a way that is acceptable by all. I will argue for an objective metric of real freedom in terms of “*social primary goods attached to social positions*”⁷.

I will argue, with Rawls, for a *distributive* conception of justice instead of an *allocative* conception of justice. This has two main consequences for the metric of justice. *To begin*, a distributive conception requires abstracting from individuals’ *actual* preferences, at least when it comes to deciding how to maximize the real freedom of the least well-off. Therefore, I will argue that distributive justice does not consist in allocating directly goods to individuals according to personal characteristics such as their preferences or their needs. It rather consists in defining social positions involving burdens and attaching them a bundle of benefits⁸. Despite the immense debate about the metric of justice in the last decades, it seems that Rawls was right all along. *Then*, it also requires focusing on the distribution of real freedom between individuals that are “fully cooperating members of society” and have abilities “in the normal range”. This forces us to abstract *temporarily* from issues related to the scope of justice and therefore some issues related to individuals that do not fully participate in the cooperative scheme such as unemployed, ill or handicapped people. But of course, issues related to various forms of exclusion are very important and I will briefly explain how to tackle them⁹.

This will lead me to argue that public authorities need a list of proxies of real freedom, i.e. a list of *social primary goods*, in order to monitor the realization of justice. The list of social

⁴ Rawls 1971: 93; 2001: 104-105; Freeman 2007: 113

⁵ Rawls 1971: 90-95; Freeman 2007: 63

⁶ Rawls 2001: 50-52, 57-61

⁷ It is only one possible way to measure real freedom (Van Parijs 1995: 50; Arneson 1989: 85-86).

⁸ Rawls 2001: 50-51, 63; Freeman 2007: 109, 125; Van Parijs 2003: 214

⁹ I already discussed that briefly in the introduction but I will come back to this in Chapter 6 (Rawls 1971: 64, 94-95; 2001: 170-172; Daniels, in Freeman 2003: 242; Pogge 2002: 182, 186-187, 196-197, 208-212).

primary goods is still a debated issue. Some propose to reduce the distribution of real freedom to the distribution of income. By contrast, Rawls insists on the importance of a select list of other primary goods. He narrows down the list by focusing on the most *polyvalent* and *workable* goods¹⁰. Besides income and financial capital, Rawls proposes the “powers and prerogatives of offices and positions of authority and responsibility” and the “social bases of self-respect”. I will discuss this list of social primary goods and develop my own.

Second, I will investigate what the just *pattern* of distribution should be. Keeping in mind that pattern applies to *social positions* and not directly to *individuals* themselves, I will explain the reasoning leading to the second principle. It involves two related requirements: *a.* maximizing the bundle of primary goods attached to the lowest social position, compared to strict equality (*the difference principle*) and *b.* securing to all a *fair equality of opportunity* to access these social positions¹¹. I will also answer the main objection to this *pattern* of distributive justice: I will argue that the distribution should not be sensitive to individual responsibility.

In Section 1, I will define the main terms of the discussion such as metrics, proxies, and patterns. In Section 2, I will argue for an objective metric of *real freedom* in terms of social primary goods attached to social positions. In Section 3, I will argue for a *distributive* conception of justice instead of an *allocative* one. In Section 4, I will provide a list of social primary goods. In Section 5, I will explain the reasoning leading to the second principle of justice. In Section 6, I will argue that the distribution should not be responsibility-sensitive.

1 – Definitions: Metrics, proxies, and patterns

Metrics and proxies

Liberal egalitarianism, like all theories of justice, must define a *scope*, a *metric* and a *pattern*. Issues related to the scope are left aside here. Theories of distributive justice need to measure and evaluate the distributive outcomes of policies. To do so, they need to propose a *metric* which will serve to compare the situations of individuals and tell who is better off and who is worse-off. Therefore, it is necessary to evaluate individuals’ respective situation on a single common metric. Otherwise, interpersonal comparisons are impossible¹². Rawls, Van Parijs Sen or Arneson all propose to compare individuals’ freedom but have different ways to measure it. Such metrics help to evaluate which individuals are more or less free¹³. Some refuse to adopt one single metric and propose *pluralist* conceptions valuing many independent metrics simultaneously¹⁴. But this only allows claiming that a given situation is beneficial “in one way”. In order to make judgments “all-things-considered”, a common metric is required.

Even if we adopt a single common metric such as real freedom, they are often too abstract to be used effectively by public authorities. They need workable *proxies* in order to be able to evaluate the impact of concrete policies. Proxies can be used to make an approximate evaluation of someone’s freedom for instance. While metrics are abstract concepts, proxies often take the form of concrete material “*goods*”, “*benefits*” or “*commodities*” that are valuable to raise someone’s situation along one metric. For example, metrics such as freedom or well-being use income as one proxy. A higher income makes someone better off because

¹⁰ Rawls 1971: 90-95; 2001: 57-61; Sen 1992: 79-87; Arnold 2012: 97. I will define these conditions later.

¹¹ Rawls 1971: 83; 2001: 42

¹² Of course, interpersonal comparisons are often difficult (Arnsperger & Van Parijs 2003: 21-22).

¹³ Rawls 2001: 39-50; Van Parijs 1995: 17-29, 48-53, Sen 1992: 12; Arneson 1989: 85

¹⁴ O’Neil (2014: 18) proposes that there are various understanding of freedom (formal freedom, real freedom, freedom as non-domination) and that we need to make tradeoffs when we evaluate public policies.

money is a very polyvalent good. It might not cover all the ways in which someone can increase his situation, but it is a very useful proxy for policy making¹⁵.

The separation of goods

Rawls' theory of justice, we will see, adopts a *single* but *complex metric* involving a *list of proxies*. A *single* metric is *complex*, in a meaningful way, only if the goods affecting it are *separated*. Here is how to define the separation of goods:

Separation: Given a metric M affected by two goods “a” and “b”, goods are separated if the sets of opportunities they open do not overlap perfectly, notably if having one good does not necessarily allow you to obtain the other.

If two goods are *not separated* and one good opens all the opportunities opened by the other or always enables to obtain the other, then one good is enough and there is no point in making the list any longer. For example, if income always allows buying food and shelter, there is no need for food and shelter to be on the list. The main reason why two proxies could be separated is if they have different *functions*, each one useful to make someone better off: for instance, income has a useful function but power over decisions affecting our future income is also important. Therefore, income is not the only valuable good and cannot always provide us with other valuable goods such as power over decisions affecting us.

For many metrics and lists of goods, there are institutional arrangements in which having access to one good can help to get access to other goods. For example, income can be useful to get many other goods including political influence or bargaining power. I will specify later how to define power¹⁶. But this is not true under all institutional arrangements. For instance, democratic institutions limit for good reasons how income can be converted into political influence. Here is another example. An unconditional basic income does provide workers with more bargaining power, but income cannot always be converted into bargaining power¹⁷. Some firms pay their workers above their marginal productivity precisely in order to *increase* their power over workers: indeed, because a higher income increases the cost of being fired, workers tend to accept harsher working conditions without complaining¹⁸. Besides, income is not the only source of power. Decision-making structures inside firms are another source of power¹⁹. Therefore, income can still be considered as separated from political influence or bargaining power because having one does not *necessarily* lead to having the others.

Patterns

Once a metric is chosen and a list of goods is established in order to serve as proxies, theories of distributive justice need to define how institutions should distribute these goods. Even in the case of a simple metric affected by only one good such as income, there are many possible *patterns*. For instance, strict egalitarians argue that all goods should be distributed equally. By contrast, as I will explain later on in this chapter, liberal egalitarians generally argue for variants of a pattern called the “maximin”. According to this pattern, some inequalities are justified if and only if they are necessary to maximize the situation of the least well-off²⁰.

¹⁵ In societies like ours, income can be exchanged for almost any good or service (Van Parijs 1995: 41-42).

¹⁶ Huge income and wealth inequalities create power inequalities and domination (Rawls 2001: 137-138; O'Neill in O'Neill & Williamson 2012a: 81-84; Stiglitz 2012: 181-211; Malleson 2014: 137-140). By contrast, a basic income gives individuals more bargaining power (Van Parijs 1995: 20-29, 32-38; Lovett 2010: 196-200).

¹⁷ Van Parijs 1995: 20-29, 32-38

¹⁸ Shapiro & Stiglitz 1984: 433

¹⁹ Young 2006: 94; Hsieh 2009: 408. Malleson (2014: 137-152) explains how the wealthy few often threatened in the past some states to force them to turn back on democratic decision by making powerful “capital strikes”.

²⁰ Rawls 1993: 283-284. I will explain this later in this Chapter, in Section 5.

2 – Metric: What is real freedom and how to measure it?

What is real freedom?

A basic claim of liberal egalitarianism is that institutions should secure the freedom of individuals to realize their conception of the good²¹. Therefore, I will start by investigating the first question: *what is real freedom and how to specify a precise metric?*

Freedom can be defined in very abstract terms as follow: it is the capacity of an agent (x), to realize a choice (y), without constraint (z)²². *Real freedom* includes all components. It includes the *capacity* of the agent (x) and the set of opportunities from which he *chooses* (y). Real freedom also includes legal and non-legal *constraints* (such as natural constraints) (z)²³. Both depend on individuals' internal resources, such as health and intellectual capacities, and external resources such as income and wealth. *Formal freedom* is nothing but a subset of this general conception of freedom that only refers to the degree of *legal* or *social* constraints (z).

If someone has the capacity (x) to realize a specific choice (y) without constraint (z), this constitutes one *opportunity*. An *opportunity set* is the *set* of choices (y) an agent (x) can realize without constraint (z). The larger people's opportunity sets become, the freer they are. But how can we measure real freedom and opportunity sets precisely?

How to measure the value of opportunity sets?

Real freedom, following what I just said, should be measured in terms opportunity sets. The problem is that each bundle of external goods allows individuals to realize very different sets of opportunities. For instance, a car allows traveling long distances but is expensive while a bicycle allows going in natural environments inaccessible by car and is very cheap but is mostly useful in good weather. If someone has one car and someone else has two bicycles, how can we evaluate which one of them has, as a result, the most opportunities?

There are many ways to measure and compare the value of opportunity sets. Van Parijs rejects three common intuitions. First, considering that two opportunity sets are unequal only if one is a subset of the other provides an incomplete ranking of opportunity sets because using this method does not allow comparing sets that don't overlap perfectly. For instance, if a car can do everything a bicycle can do and more, it obviously provides more freedom. But if cars do things that bicycles can't do and bicycles do things that cars can't do, there is no way to compare the two bundles. Second, measuring the "physical size" of opportunity sets by counting the "number" of opportunities also raises two problems. In theory, any bundle of goods opens infinite opportunities (artists sometimes transform bicycles into contemporary art for instance), and in practice, the lack of information will most probably lead to incomplete rankings (predicting every single thing an artist can do with a bicycle may be difficult)²⁴.

A third approach deserves more attention. Arneson proposes to take into account individual preferences and therefore to measure the value of opportunity sets in terms of "opportunity for welfare". Indeed, the value of someone's opportunity set depends on how the corresponding bundle of external goods helps him to satisfy his preferences²⁵. For instance, if someone has a car but hates road trips and prefers going to the park, the opportunities opened by the

²¹ Rawls 2001: 42; Van Parijs 1991: 225

²² This definition is compatible with Rawls' (1993: 324-326) and is explicitly stated by MacCallum (1967: 314).

²³ Rawls 1993: 324-326; Van Parijs 1991: 225; 1995: 21-24

²⁴ Van Parijs 1995: 48-57

²⁵ Arneson 1989, 1990. See also: Van Parijs 1995: 50

ownership of a car will have very low value for him while the opportunities opened by owning a bicycle will have much more value. For Arneson, if the bundle of goods of two individuals allows them to satisfy their preferences equally, their opportunity sets are equal²⁶. For example, if a Yuppie has a car and all he wants is to travel outside the city while a Hippie has a bicycle and all he wants is to go to the park, their opportunity sets are equal.

Van Parijs underlines two main problems with Arneson's metric of opportunity for welfare. He underlines that a metric of opportunity for welfare relies, by definition, on the assumption that individuals seek to satisfy their preferences²⁷. I find difficult to reject this assumption, especially if one adopts a *broad* conception of what "preferences" mean. Seeking to satisfy our preferences does not mean seeking immediate hedonistic pleasure only. Satisfying our preferences might also include respecting moral or cultural norms that we internalized. In brief, it means to realize our conception of the good. It is not controversial to assume that individuals seek to realize their conception of the good life so understood.

Van Parijs also underlines the problem of expensive preferences. If individuals' actual preferences were to be taken into account when evaluating opportunity sets, individuals having an objectively vast amount of resources but claiming to have even more expensive preferences (such as having three cars, two bicycles and eating caviar every day) would be considered to have very small opportunity sets because their vast amount of external resources would still be largely insufficient to satisfy their preferences. Following Van Parijs example, the more ambitious "Yuppies", who are objectively in comfortable situations but have very expensive preferences would be considered to have smaller opportunity sets than "Hippies", who are objectively poor but have very cheap preferences. Van Parijs seems to consider this as very counterintuitive. For him, the problem of expensive preferences is fatal for the conception of freedom measured in terms of opportunity for welfare²⁸.

I agree with Van Parijs for rejecting Arneson's metric of opportunity for welfare but I disagree with him on the reason for rejecting it. Opportunity for welfare is certainly the right metric for individuals to *personally* assess the value of their *own* bundle of external goods. It is almost true by definition. We are looking for the contribution of external goods to our capacity to realize our preferences: this links the value of goods to our preferences.

The *real problem* with Arneson's metric of opportunity for welfare appears when we need to reach *collective agreements* about the value of the goods or opportunity sets of *other* people. While a single individual has only one set of preferences, which makes opportunity for welfare a workable metric, individuals in a group each have their own set of preferences. Therefore, people do not only disagree about the relative value of cars and bicycles but they also make judgments about the legitimacy of the preferences of others. For instance, some could believe that the preference for a car is not legitimate. It is thus difficult for individuals with different preferences to reach an agreement about the value, in terms of opportunities for welfare, of a given bundle of external goods. We need to take this challenge seriously. This justifies choosing an objective metric abstracting from individuals' *actual* preferences. This is why Rawls argues that "for questions of social justice we should try to find some objective grounds for these [interpersonal] comparisons, ones that men can recognize and agree to"²⁹.

²⁶ Arneson 1989: 85-86; Van Parijs 1995: 50. As Van Parijs underlines, according to this view, it is *opportunities for welfare* that matter but not *welfare* or *well-being* per se.

²⁷ Van Parijs 1995: 82

²⁸ Van Parijs 1995: 50-51, 80-82

²⁹ Rawls 1971: 90-91. On the need to accommodate reasonable pluralism, see: Clayton & Williams 1999: 458-459

The metric of real freedom should abstract from individuals' actual preferences

The *main* reason why Rawls thinks that theories of justice should abstract from individuals' actual preferences is that individuals would not *agree* on principles of justice basing the distribution of goods on individual preferences. In other words, he thinks that providing *publicly acceptable* principles of justice distributing goods according to preferences at any point in time is impossible³⁰. Therefore, distributive justice requires us to abstract from our *actual preferences* and to reason *behind the veil of ignorance*. As Arnold underlines:

Facts about what people actually prefer...are irrelevant here. To solve the index problem we are to reason from the position of the worst off, where that means...that we sit behind the "veil of ignorance" and are motivated to secure our three fundamental interests in the development of our moral powers and our ability to pursue a determinate conception of the good. Given these restrictions and stipulations, actually existing people's preferences do not matter³¹.

But there are at least two reasons why partners in the original position should ignore *actual preferences*. These two requirements will come back along the chapter³².

The first reason, as I said, is that reasonable pluralism prevents *agreements*. It would be impossible to agree about a public criterion to allocate resources according to people's preferences at any point in time³³. Partners in the original position cannot agree on whose preferences should have the priority or which ones should be considered more important.

The second reason is that taking into account individuals' *actual* preferences is not *workable*. To begin, epistemic problems make it unworkable. One should be careful about adaptive preferences³⁴, actual preferences might be ill informed and we tend to discount future outcomes and misevaluate future risks³⁵. For example, it can be risky to accept more income in exchange for less power because more powerful people could use their power to deprive us of our income in the future³⁶. Moreover, observing individuals' actual choices is not a good way to deduce their preferences. Even if individuals actually choose some good over another, the context of choice might influence their life choices and even their claims about their own preferences. To illustrate this possibility, Lovett recalls the example of women who accepted for so long the domination coming with marriage. How to choose otherwise if other options were even worse³⁷? Similarly, because they are deprived of all goods, many workers might very well prefer a bit more income immediately than a bit more power. This does not mean that ideally, they would not prefer more income *and* more power at the same time³⁸. If they are not involved in democratic workplaces today it might be because the context of choice does not allow it (pursuing this goal may lead to unemployment)³⁹. The epistemic problems are even deeper if we are to take into account the intensity of preferences, which are difficult to assess. This makes interpersonal comparisons of well-being very difficult⁴⁰. Then, even if

³⁰ Rawls 1971: 90-95; 2001: 50-51, 54; Pogge 2002: 208-209; Clayton & Williams 1999: 458-459

³¹ Arnold 2012: 113-114

³² These two requirements are underlined by Clayton and Williams (1999: 458-459) for instance.

³³ Rawls 1971: 94-95; 1993: 187-190; 2001: 50-54

³⁴ Elster, in Sen & Williams 1982: 219; Vandenbroucke & Van Parijs (*forthcoming*).

³⁵ Rawls 1971: 420

³⁶ Lovett (2010: 80) thinks power relations should be understood independently of individuals' desires. The fact that I don't desire to dominate others does not mean that the state should not implement institutional structures to prevent me doing so. Similarly, the fact that I don't want at a point in time to exercise my bargaining power does not mean that institutional structures should not protect me from domination.

³⁷ Lovett 2010: 144, 147-151

³⁸ On the fact that many workers want power, see: Gosseries & Ponthière 2008: 3-9; Malleson 2014: 47-49

³⁹ Malleson (2014: 40) argues that workers should have job opportunities involving less power inequality.

⁴⁰ Rawls 1971 : 92; Arnsperger & Van Parijs 2003: 21-22

we suppose that epistemic problems can be solved, taking into account individuals' *actual* preferences is still not *workable* for another reason. Indeed, this requires public institutions to gather too much information about individuals' actual preferences. This would require very *intrusive* policies (violating people's privacy) and very *costly* policies⁴¹.

To conclude, even if the metric of "opportunity for welfare" is the right one for individuals, to *personally* assess the value of their *own* bundle of external goods, it is *not* the right one when we need to make *collective* agreements about the value of the opportunity sets of *others*. This is why Rawls is right to argue that "for questions of social justice we should try to find some objective grounds for these [interpersonal] comparisons, ones that men can recognize and agree to"⁴². But obviously, the next question is the following: why would individuals have more reasons to agree on a metric abstracting from their actual preferences?

3 – Metric: Why distributive justice and not allocative justice?

In a liberal framework, an *objective* metric of real freedom poses problems. If we do not want to impose a specific conception of the good to individuals by fixing the value of all external goods, and if we cannot take into account individuals' actual preferences, what *common ground* is left in order to reach a public agreement about the metric of justice? Why would individuals have reasons to agree on a metric abstracting from their actual preferences?

How to ground an objective metric of real freedom?

A fundamental idea in Rawls' conception of justice is that society is a system of cooperation for mutual advantage. Because everyone needs cooperation in order to produce resources, everyone understands the need to build an agreement about the rules of social cooperation. Indeed, as Rawls underlines it: "without cooperation, there would be nothing produced and so nothing to distribute"⁴³. Therefore, we *need* to agree on acceptable rules in order to secure the stability of social cooperation over time. The need to stabilize cooperation through a political agreement is *the common ground* for an objective metric of real freedom. This need to stabilize cooperation has *two* related consequences for the metric of justice.

i. The first consequence is that, because we need a political agreement to stabilize cooperation, we need to avoid imposing any conception of the good life to anyone and therefore we need to abstract from individuals' actual preferences. Only preferences *behind the veil of ignorance* should count⁴⁴. Under these conditions, partners in the original position will rationally agree that their only option is to distribute the external goods with *the most chances* of maximizing people's opportunities for welfare, whatever their actual preferences.

The only liberal way to do so is to focus on real freedom's most polyvalent proxies. We need to focus on *the most polyvalent goods* and then let people use them to get the bundle of external goods fitting their preferences. For instance, with a polyvalent good such as income, people have access to the external goods that can be exchanged on the market. The value of these external goods would thus be fixed by their competitive value on the market. This solution is very close to what Van Parijs identifies as the fourth way of assessing the value of bundles of goods, which evaluates them according to the *opportunity cost* for others of

⁴¹ Anderson (1999: 289, 310) raises the same argument in the case of assessing personal responsibility.

⁴² Rawls 1971 : 90-91

⁴³ Rawls 2001: 61. It might be more accurate to say that "...there would be *almost* nothing produced..."

⁴⁴ Rawls (1993: 187-190; 2001: 60) underlines the objective character of social primary goods.

someone owning a given bundle of external goods. However, besides income, there may be other polyvalent goods, such as power, that provide a particular set of opportunities but that are not always exchangeable on the market⁴⁵. As I will explain in the following section, this is the reason why Rawls proposes a list of other *social primary goods*.

ii. *The second consequence* is that, because we need a political agreement to stabilize social cooperation, the distribution of goods should not depend on individuals' preferences but on what is necessary to maintain an efficient and productive system of social cooperation over time. Therefore, not only do we need to distribute social primary goods but we also need to establish proper *incentives* for production. Therefore, we need to *link* the distribution of the *burdens* and the distribution of the *benefits* of cooperation. We need to be concerned about how to distribute burdens *and* benefits, and how to *attach* burdens to benefits in order to create appropriate incentives pushing individuals to take on some burdens and pushing everyone to maintain an efficient and productive system of social cooperation over time⁴⁶.

This is why the metric of justice should be “the bundle of social primary goods attached to *social positions*”, not to the *least well-off* himself. *Social positions* are defined by the combination of some *burdens* of cooperation in terms of work for instance (janitor, artist, worker, teacher, doctor, lawyer, CEO and so on...) and some *benefits* in terms of social primary goods⁴⁷. Individuals receive a share of the socio-economic benefits by holding a social position, thereby assuming some *burdens* in the cooperative scheme. Once the distribution *between social positions* is realized, we let individuals have access to them and *choose* the social position that best fits their plan in life⁴⁸. For Van Parijs:

Properly understood, the difference principle is an opportunity-egalitarian principle, and its being phrased in terms of expectations associated with social positions, rather than directly in terms of primary goods, is of crucial importance in this respect⁴⁹.

To sum up, the task of public institutions is not to allocate all external goods *directly to individuals* according to personal *preferences* or with the aim of realizing a given Gini coefficient. Their task is rather to distribute the most polyvalent *social primary goods* between *social positions*. The actual allocation of external goods will then depend on the choices individuals will make during their life: for instance, choices about which goods they consume, or which social position best satisfies their preferences. They are the best informed about the bundle of benefits and the social position fitting their *actual* preferences⁵⁰.

The distinction between distributive justice and allocative justice

As I already argued, Rawls defends an institutional conception of justice holding that principles of justice do not apply to individual actions but to institutions. One reason is that a just system or a just regime is a coherent scheme of rules and policies that in the end, all together, succeeds in realizing all the principles of justice. There is no way to make any judgment on one single policy or one single organization in the abstraction of the other policies in place, their interactions and their aggregate impact on the distribution of primary goods. Therefore, a theory of justice should identify which *system* can best realize all the

⁴⁵ Van Parijs (1995: 51, 80-82) adopts this forth way to measure opportunities.

⁴⁶ Rawls 2001: 50-54; 1993: 283. Note that this is a general, not a strict, conception of reciprocity.

⁴⁷ Rawls 2001: 50-52, 57-61; Freeman 2007 : 59, 88; Van Parijs 1991: 225; 1995: 21-24

⁴⁸ Rawls 1971: 94-95; 2001: 50-51, 63, 175; Pogge 2002: 208-210; Freeman 2007: 106-109, 125; Van Parijs, in Freeman 2003: 214. *It doesn't necessarily mean that rewards should be proportional to contributions.*

⁴⁹ Van Parijs, in Freeman 2003: 214

⁵⁰ Rawls 1971: 94-95; 1993: 283-284; 2001: 50-54, 175; Pogge 2002: 208-210

requirements of social justice⁵¹. Yet, an institutional conception of justice is still compatible with both *distributive* and *allocative* conceptions of justice.

The objective metric of real freedom that I just presented above corresponds exactly to what Rawls calls “*distributive justice*”, by opposition to “*allocative justice*”⁵². The distinction is based on two variables. First, (a.) public institutions *could, or not*, allocate resources according to individuals’ preferences or needs. For instance, they could, or not, allocate a given commodity to the individual that has the “strongest” preference for it. Second, (b.) public institutions *could, or not*, take into account the fact that individuals need to cooperate to produce benefits. For instance, they could, or not, allocate resources according to the incentives necessary to create a productive and efficient system.

If these two criteria are orthogonal in theory, I argued that *the same* reason recommends choosing one particular combination. *Because* we need a political agreement about social rules to stabilize social cooperation, we need *both* (a.) a metric of real freedom that does not take into account individuals’ preferences *and* (b.) a metric that takes into account the need for a stable cooperation. Therefore, “*distributive justice*” should be defined by the following combination: (a.) it does not take into account individuals’ preferences *and* (b.) it has a concern for the fact that individuals need to cooperate to produce benefits⁵³. For Rawls:

The problem of *distributive justice* in justice as fairness is always this: How are the institutions of the basic structure to be regulated as one unified scheme of institutions so that a fair, efficient, and productive system of social cooperation can be maintained over time, from one generation to the next? Contrast this with the very different problem of how a given bundle of commodities is to be distributed, or allocated, among various individuals **[a.]** *whose particular needs, desires, and preferences are known to us*, and **[b.]** *who have not cooperated in any way to produce those commodities*. This second problem is that of *allocative justice* [...] ⁵⁴.

To *distributive justice*, Rawls *opposes* what he calls *allocative justice* which according to him (a.) takes into account individuals’ actual preferences *and* (b.) does not take into account the fact that individuals need to cooperate. I think that we can also label as *allocative justice* the two other possible combinations of these two variables. Therefore:

Distributive justice	Preference- <i>insensitive</i> and Cooperation-sensitive
Allocative justice	Preference-sensitive or Cooperation- <i>insensitive</i>

I already argued why *distributive justice* is the appropriate conception. Rawls is clear:

“We reject the idea of allocative justice as incompatible with the fundamental idea by which justice as fairness is organized: the idea of a fair system of social cooperation over time. [...] particular distributions cannot be judged at all apart from the claims of individuals earned by their efforts within the fair system of cooperation from which those distributions result”⁵⁵.

To sum up, *because* we need a political agreement to stabilize social cooperation, we are left with only one option. We need to adopt a conception of justice based, not on the fact that

⁵¹ Rawls 1971: 57; 2001: 135-136; Van Parijs 1995: 27; Schemmel 2015: 396. This is opposed to an idea of local justice that would evaluate the justice of particular individual transactions regardless of the general institutional and distributive background of society in general.

⁵² Rawls 2001 : 50-51

⁵³ Rawls 2001: 50-54; 1993: 283-284. Note that this is a *general*, not a *strict*, conception of reciprocity.

⁵⁴ Rawls 2001: 50 (*my italics*)

⁵⁵ Rawls 2001: 50

individual preferences need to be satisfied (because of *reasonable pluralism* and various *workability problems*), but on the fact that individuals need *incentives* to cooperate and produce resources. While *allocative justice* considers resources as “manna from heaven”, abstracting from the conditions of their production, and proposes to allocate them only according to individuals’ preferences or needs, a *distributive conception of justice* is concerned about the need to cooperate to produce resources. Therefore, public institutions need to distribute burdens *and* benefits, and to *attach* burdens to benefits, so that individuals get the appropriate incentives to take on some burdens and maintain an efficient and productive system of social cooperation over time. This is why the metric of justice should be “the bundle of *social primary goods* attached to *social positions*”⁵⁶.

A distributive conception of justice solves the problem of expensive preferences

Sen argues that an objective account of freedom is misleading because it neglects two elements making persons different: people’s *preferences* and *needs* (depending on other types of goods such as natural goods or personal abilities)⁵⁷. I already explained why the metric of freedom should abstract from individuals’ actual preferences because taking them into account makes a collective agreement about justice very difficult. I will now explain why a distributive conception of the good solves the problem of expensive preferences.

i. First, I argued that if partners in the original position are to find an agreement, they need to abstract from actual preferences and particular conceptions of the good and focus simply on creating the incentives necessary to maintain a productive and efficient system of cooperation. As Rawls says, “fair shares of primary goods are clearly not intended as a measure of citizens’ expected overall psychological well-being, or of their utility”⁵⁸. Instead, society should be organized so that the lowest social position is attached to the bundle of external resources that has *the most chances* of maximizing the opportunities for welfare of whoever will end up holding it, whatever his preferences may be. Once the distribution of social primary goods between social positions is realized, we let people choose a social position and use the polyvalent primary goods attached to it to get the bundle of external goods fitting their preferences. Yuppies will seek higher social positions while Hippies will be satisfied with lower social positions. Then, given a fair distribution of the most polyvalent goods, the value of most other external goods would be fixed by their competitive value on the market.

ii. Second, if this answers the question about what public institutions should do regarding expensive preferences, it does not change the fact that individuals’ with expensive preferences will need to spend all their resources on only some of the expensive goods they want and therefore, will have fewer resources to buy other goods. But Rawls rejects this problem because he (rightly) assumes that individuals’ preferences are not given: they are malleable at a negligible cost. They are malleable thanks to education but mainly thanks to adaptive preferences. The reason is that individuals are rational persons able to adapt their preferences to their situation⁵⁹. Van Parijs acknowledges that if this is the true, the problem of expensive preferences disappears because, with a given bundle of goods, anyone would be able, over time, to reach a similar level of preference satisfaction or welfare than anyone else because everyone would be able to adapt their preferences to their situation at a negligible cost⁶⁰.

⁵⁶ Rawls 2001: 50-54

⁵⁷ Sen 1992: 85; Pogge 2002: 176-178

⁵⁸ Rawls 1993: 187-190

⁵⁹ Rawls underlines that: “it is assumed that the members of society are rational persons able to adjust their conceptions of the good to their situation” (Rawls 1971: 94-95).

⁶⁰ Van Parijs 1995: 50, 80-82

Rawls does not only assume that people *are able* to do so. He thinks that people *are normatively required* to adapt their preferences to some extent. Indeed, for social rules to be just and stable, all participants in social cooperation need to accept the distribution of burdens and benefits. Individuals having expensive preferences will rationally want to maximize their bundle of goods, but will rationally understand the need to preserve the political agreement and the stability of cooperation. If so, they cannot claim a bundle of goods unacceptable by others but only the maximum bundle that is at the same time acceptable to others⁶¹.

A distributive conception of justice can solve issues related to differences in needs

But *even if* we suppose that two individuals have identical preferences, Sen argues that an objective account of freedom is misleading because persons have different *needs* (depending on other types of goods such as natural goods or personal abilities to convert primary goods into valuable “functionings”)⁶². Until now, I have followed Rawls’ assumption that all individuals are “fully participating” in the cooperative scheme: they have a job, they are able to work and their abilities are in “the normal range”⁶³. The issue of differences in needs is very important but tackling it does not require rejecting a distributive conception of justice.

True, distributive justice is primarily concerned with the organization of cooperation and the distribution of burdens and benefits between “fully cooperating” members having abilities “in the normal range”⁶⁴. This forces us to abstract *temporarily* from issues related to individuals that do not fully participate in the cooperative scheme such as ill or handicapped people. But this does not mean that there is no way to include the individuals that are currently outside the cooperative scheme. Rawls and Pogge underline three ways in which a society based on a distributive conception of justice makes disabled people better-off.

First, for people that are still able to participate in cooperation but that have talents with lower market value, a just society would nevertheless improve their situation. Sure, if their talents have a lower market value, they will end up in the lowest social positions. But institutions should maximize the lowest position no matter their marginal productivity⁶⁵. For Van Parijs:

It does not follow, however, that one should adopt the “principle of redress”, i.e. “try to even out handicaps”, to eliminate differences in natural capacities. “There is another way to deal with them. The basic structure can be arranged so that these contingencies work for the good of the least fortunate” (TJ, pp.101-2/87 rev.). How can this be achieved? Precisely by defining a social position that is fully accessible to the least fortunate in this sense and designing the institutions in such a way that the lifetime prospects, in terms of social and economic advantages, of the representative incumbent of this position are as good as they can feasibly be⁶⁶.

Second, many differences in natural goods between people today (such as illness or handicap) are produced because our institutional arrangements are unjust. For Pogge, a just society focusing on resources attached to positions would tackle the origin of many disabilities⁶⁷:

These problems are addressed more compellingly by resourcists than by capability theorists. Where the latter criticize institutional schemes for their failure to compensate for special physical and mental frailties, resourcists more powerfully criticize the same institutional

⁶¹ Rawls 1971: 94-95

⁶² Sen 1992: 28-30, 102-116; Wolff & De-Shalit 2007: 27; Pogge 2002: 176-178

⁶³ This is what Rawls does (Rawls 2001: 170-176; Van Parijs, in Freeman 2003: 215; Pogge 2002: 182).

⁶⁴ Rawls 1971: 94-95; 2001: 170-172; Daniels, in Freeman 2003: 242; Pogge 2002: 182, 208-212

⁶⁵ Rawls 2001: 170-176; Pogge 2002: 196-204

⁶⁶ Van Parijs, in Freeman 2003: 215. See also: Pogge 2002: 176-178, 186-188, 190-191, 196-204, 208-212

⁶⁷ Pogge 2002: 186-188, 196-204; Daniels 2008: 61, 79-88

schemes for their failure to compensate for frailties they themselves produce through the severe mistreatment they impose on so many children and adults⁶⁸.

Third, in order to maximize the prospects of everyone over their complete life, it is rational to implement public health and social insurance schemes to prevent or compensate for the risks faced by everyone to fall out of the cooperative scheme for a while⁶⁹. Such insurance schemes would be beneficial to all potentially cooperating members of society since everyone faces the risk of being a victim of bad luck. These victims of bad luck would, therefore, enjoy more resources during the time they fall out of cooperative activities⁷⁰.

These three answers show how a distributive conception of justice can remain non-perfectionist and ignore individual preferences or abilities while caring about disabled people.

Situations in which distributive and allocative conceptions are compatible

I said that an institutional conception of justice is compatible with both distributive and allocative conceptions of justice. I also argued that the need for a political agreement to stabilize cooperation is the reason to adopt a distributive conception that combines abstracting from individuals' actual preferences and being concerned with incentives to cooperation.

To reach a political agreement, we need to abstract from individuals' actual preferences for two main reasons. First, *agreements* will be difficult since people have different preferences in pluralist societies. Second, taking actual preferences into account is not *workable*. To begin, there are *epistemic* problems. Preferences are often adapted, uninformed and discount the future which makes it difficult to identify people's "authentic" preferences. Then, taking actual preferences into account at the level of the general regulation of the basic institutional structure is not workable because it would require too much information, which would turn out to be too *intrusive* and too *costly*. For these two reasons, I argued that a distributive conception of justice focusing on a metric of "social primary goods attached to social positions" is preferable when we try to regulate the basic structure of society *as a whole*. Despite the debate about the metric of justice, it seems that Rawls was right all along.

However, there is room to combine a distributive conception for the regulation of the basic structure and socio-economic system as a whole *and* an allocative approach at the legislative stage for the *local* distribution of specific external goods. I think for instance about the distribution of health resources inside a hospital or within a given geographic region. In specific *local* circumstances, overcoming the two problems of *agreement* and *workability* is possible. Of course, realizing a just distribution of social primary goods between social positions would already accomplish a lot for the distribution of health. But even within a just society, additional allocation problems arise. In such local cases, *if* local decision mechanisms are *accepted* by everyone (they should be democratic), and *if* we can use *workable* policies to gather *reliable* information about individuals' preferences (authentic and informed) *in a way* that is not too *intrusive* or too *costly* (such as extensive surveys or participation mechanisms), *then* allocative justice taking individuals' actual preferences into account is acceptable⁷¹. However, this is another field of research and I will not refer to it in this thesis.

⁶⁸ Pogge 2002: 186-188, 196-204

⁶⁹ Rawls 2001: 170-176

⁷⁰ Rawls 2001: 173. Becker (2005: 16) demonstrates how Rawls theory can provide an appropriate answer to disability. In Chapter 6, I will briefly analyze the specific ethical issues raised by insurance systems.

⁷¹ For Rawls (2001: 172) we have more information at the legislative stage and particular conditions can be taken into account. In such local cases, we can use a democratic approach to select capabilities such as the one proposed by Sen (Sen 2009) or the equivalent income approach proposed by Fleurbaey (Fleurbaey & al. 2011).

4 – Proxies: Which goods qualify as social primary goods?

Selecting social primary goods

Rawls argues that “for questions of social justice we should try to find some objective grounds for these [interpersonal] comparisons, ones that men can recognize and agree to”⁷². Therefore, as I said, even if our own personal evaluation of our real freedom is best understood in terms of opportunity for welfare, the need for political agreement implies that the metric of justice cannot take into account individuals’ *actual* preferences, but only their preferences *behind the veil of ignorance*. Under these conditions, everyone will rationally agree that society should be organized so that the lowest social position is attached to a bundle of external resources that has *the most chances* of maximizing the opportunities for welfare of whoever will end up holding it, whatever his actual preferences will be⁷³.

The only liberal way to do so is to focus on real freedom’s most *polyvalent* proxies. Public institutions need to distribute goods or benefits that *any* rational citizen would like in order to be really free to realize their conception of the good life, whatever his actual preferences may be⁷⁴. Rawls calls these goods *social primary goods*:

These are various social conditions and all-purpose means that are generally necessary to enable citizens adequately to develop and fully exercise their two moral powers, and to pursue their determinate conception of the good⁷⁵.

I leave aside basic liberties, or basic formal freedoms, which are considered by Rawls to be included in the list of social primary goods. They are protected by the general presumption of formal freedom. Regulations restricting formal freedom need to be limited to the ones necessary to realize the two principles of justice. Rawls deals with the distribution of basic formal freedoms with the first principle. I argued that there is a priority assigned to their equal distribution. The main reason is that basic formal freedoms are extremely positional. I will rather focus on goods that could be distributed unequally, under specific conditions at least⁷⁶.

When Rawls uses the terms *social primary goods*, he refers sometimes to material goods such as income, and sometimes to more abstract benefits or internal resources such as power or self-governing capacities⁷⁷. In order to clarify potential ambiguities, I propose to distinguish from now on the *primary goods* themselves, on the one hand, referring to the goods or benefits allowing individuals to exercise their freedom, and the *social bases* of these goods, on the other hand, referring to “various social conditions and all-purpose means” that secure these benefits like external resources and other institutional conditions⁷⁸. For example, purchasing power is an important “good” or “benefit” allowing people to exercise their freedom. Income and capital are the most polyvalent “social bases” of purchasing power.

⁷² Rawls 1971: 90-91. See also: Rawls 1993: 187-190

⁷³ Rawls (1993: 187-190; 2001: 60) underlines the objective character of social primary goods.

⁷⁴ Rawls 1971: 93; 1993: 178-190; Van Parijs 1991: 225; 1995: 21-27

⁷⁵ Rawls 2001: 57. See also: Rawls 1971: 92-93; 1993: 178-190; Van Parijs 1991: 225; 1995: 21-27. Elsewhere, Rawls precise that “primary goods... are things which it is supposed a rational man wants what-ever else he wants... Now the assumption is that though men’s rational plans do have different final ends, they nevertheless all require for their execution certain primary goods” (Rawls 1971: 92-93).

⁷⁶ Rawls 1971: 93; 1993: 356-363. Cf. Chapter 1

⁷⁷ Rawls 2001: 57-61, 175

⁷⁸ Rawls 2001: 60. These “social bases” refer to what Sen (1999: 6) calls “commodities” and also to various other aspects of social institutions.

However, a single proxy can fail to approximate what is important to make someone better off because life is complex and realizing our conception of the good life may require goods with various functions that are not always substitutable. Therefore, we need to establish a list of proxies of real freedom. The problem is that we need a way to select which goods should be on this list. Martha Nussbaum proposes a metric of human flourishing with a list of functionings guaranteeing human dignity. Because human lives are complex, she argues that human flourishing is constituted by an extended list of fundamental “capabilities”⁷⁹. The problem with such a selection method is that it is hardly compatible with a liberal non-perfectionist view. By contrast, Sen underlines the difference between persons in terms of preferences or abilities, which means that the capacities of people to convert income or other goods into freedom or well-being will be different. Therefore, he proposes to select the goods on the list democratically⁸⁰. As I already argued, the problem is that because individual differ almost infinitely in preferences and abilities, and because people will not agree on the value of different external goods, such a method can lead to indefinite and unworkable lists.

The difference between Rawls’ and Sen’s approaches is the method to select relevant goods or capabilities. Rawls argues that the selection of these goods needs to be based on two public criteria⁸¹. First, in a liberal non-perfectionist perspective, public institutions should focus on goods that are the *most polyvalent (primary goods)*, thus avoiding Nussbaum’s perfectionism. These goods should enable individuals to realize, without arbitrary restrictions, the largest and most diverse set of conceptions of the good life, no matter what it is. Rawls (plausibly) assumes that there are sufficient similarities between all conceptions of the good life so that the same polyvalent primary goods enable to realize all of them⁸².

Second, public institutions should focus on goods that are the most *workable (social goods)*, thus avoiding Sen’s indefinite and unworkable list⁸³. One condition to be workable is that the social bases of primary goods should be sufficiently simple external goods that every citizen can understand⁸⁴. Another condition is that they must be practical. As Arnold puts it: “Primary goods, Rawls holds, must respect the limits of the practical: they must be amenable to objective measurement through a process that’s simple enough to be ‘workable’ for everyday politics”⁸⁵. Public institutions thus need to focus on the distribution of the *social bases* of goods that are easy to identify, to measure and to use by public authorities. For instance, public institutions cannot distribute directly *internal* resources. If internal resources are important, they should distribute their *external* social bases⁸⁶.

Given the goal to distribute real freedom and given what we know about contemporary societies, which goods qualify as the most polyvalent and workable? Which goods need to be distributed fairly in order to allow everyone to realize their plans in life? I will narrow the list down to the four following *social primary goods*. The list includes the social bases of two external primary goods (purchasing power and protection from domination) and two internal primary goods (self-governing capacities and self-respect):

⁷⁹ Nussbaum 2000; Sen 1992: 79-87; Fleurbaey 2008a: 9, 270; Arnold 2012: 97

⁸⁰ Sen 1992: 79-87; Fleurbaey 2008a: 9, 270; Arnold 2012: 97

⁸¹ Pogge 2002: 177-179, 190-191, 208-212; Arnold 2012: 97

⁸² Rawls 1971: 90-95; 1993: 178-190; Pogge 2002: 208-212

⁸³ Rawls 1971: 90-95; 2001: 57-61; Nussbaum 2000; Sen 1992: 79-87; Fleurbaey 2008a: 9, 270; Arnold 2012: 97

⁸⁴ Rawls 1971: 90-95; 1993: 187. This must make sense to citizens engaged in the public debate about justice.

⁸⁵ Arnold 2012: 97. See also: Rawls 1971: 90-95; 1993: 178-190; 2001: 57-61, 175; Pogge 2002: 217

⁸⁶ These *external* social bases are the general institutional conditions of their development (Rawls 2001: 57-61; Pogge 2002: 208-212; Arnold 2012: 97). This is true for internal goods such as self-respect, or health.

Table 2 : The list of social primary goods

1. *The social bases of purchasing power*
2. *The social bases of protection from domination*
3. *The social bases of self-governing capacities*
4. *The social bases of self-respect*

Each one has a specific *function*. In a nutshell, purchasing power secures our ability to exchange goods. Protection from domination, through a fair distribution of power, secures control over important decisions affecting our *future* bundle of goods. Self-governing capacities help us to use our purchasing power and our power in an intelligent and useful way. While protection from domination consists in being protected against the possibility that decisions of others affect our lives, self-governing capacities consist in having the mental capacity to make autonomous choices. Finally, even if we will see that the social bases of self-respect are not a separated good, let me note that it provides us with a sense of our own value and the motivation and confidence necessary to achieve our conception of the good life.

Here, I need to add a small remark about leisure. Because the tradeoff between income and leisure has attracted a lot of attention in the literature, some propose that leisure should be counted in the list of social primary goods⁸⁷. But from the discussion above about *distributive justice*, the reason why leisure is not on the list is clear. Remember that primary goods are distributed to social positions and not to individuals themselves, and social positions are defined by a share of the cooperative burden and the share of benefits attached to it. Then individuals are left to choose the social position they prefer. When doing so, they will sacrifice a part of their leisure time (which they already have simply because they exist), take on some cooperative burden (which often involves spending time on a specific task, but not necessarily) and get some social primary goods in exchange for their time.

But when choosing the amount of leisure time they are willing to sacrifice in exchange of social primary goods, they have many options. For instance, they can decide to work only for periods of the year, or several years, or choose part-time work. Or, if they have access to primary goods such as protection from domination in their workplace, they can negotiate their working contract in order to reduce their working hours. In such a framework, it is clear why leisure should not be listed as a primary good: everyone already has leisure and simply has to decide how much leisure he wants to sacrifice in exchange for primary goods.

Rawls suggests that any list can be discussed. In fact, since the selection is not based on some perfectionist conception of the good life, there is no way to define *a priori* the list of primary good that are the most polyvalent and workable. We need to constantly seek a reflective equilibrium and evaluate whether the goods on the list are polyvalent, workable and exhaust our normative intuitions about what freedom requires⁸⁸. Yet, the list of goods I provide here is sufficient for the purpose of my argument. For now, I will provide a definition of these primary goods, explain briefly which function they secure for real freedom, and explain why they are polyvalent and workable. In Chapter 5, I will analyze their *function* in more details.

⁸⁷ Rawls 2001: 179

⁸⁸ Rawls (2001: 179) has doubts about leisure but other goods may be considered.

The social bases of purchasing power

In societies like ours, money can be exchanged for a wide range of other goods or services⁸⁹. This makes income and wealth (or financial capital, as accumulated income), very important to realize a wide range of conceptions of the good life. This is why Rawls and many other authors consider *income* and *wealth* as primary goods. In fact, we can understand them as being the most polyvalent *social bases of purchasing power*:

The social bases of purchasing power: The various social conditions and all-purpose means necessary to enable citizens to exchange a wide range of external goods and services on the market, to invest and participate actively in the economy⁹⁰.

First, purchasing power is a very *polyvalent* good. Of course, other goods than income and capital can serve as exchange currencies. But as Van Parijs underlines, either there are other goods that can be exchanged for an as wide variety of other goods and services, in which case their acquisition is an income and their accumulation is capital, or these other goods are exchangeable, but for a smaller variety of other goods (or their value decrease over time like for perishable goods), in which case they are less polyvalent than income and capital: they can be used for fewer ends or for more limited time⁹¹. Distributing income and capital is, therefore, the best way to distribute purchasing power. Distributing purchasing power is also the solution to allocate most other external goods. Instead of trying to allocate external goods directly to individuals and then having to find an acceptable criterion for the allocation, distributing purchasing power leaves the allocation in the hands of individuals which can purchase goods, of which prices are set on a competitive market. Scarce resources will have higher prices and more abundant resources will have lower prices⁹².

Second, income, financial capital and the institutions on which they rely such as property and currencies are *workable* social bases. Public authorities can easily measure them using currency units, they can distribute them precisely and the issue of their distribution is very well understood by the general public and citizens involved in the public debate. This is one reason why GDP and individuals' or households' purchasing power are so often used as indicators to evaluate development and poverty. For instance, the Human Development Index (HDI) includes *per capita* GDP adjusted for purchasing power parity, among other factors⁹³.

Purchasing power is thus a very *polyvalent* good and its social bases (income and capital) are *workable*. *Ceteris paribus*, having more purchasing power translates into more real freedom.

The social bases of protection from domination

Just institutions should maximize individuals' real freedom. As I said, freedom can be defined as the capacity of an agent (x) to realize a choice (y) without constraints (z)⁹⁴. Any similar metric can be understood a metric of real freedom. Therefore, a conceptual clarification is important in order to reject the general (neo-Hobbesian) conception of "power". Power could be defined as "the capacity of an agent to realize its choices without resistance"⁹⁵. We can

⁸⁹ Rawls 2001: 58-59; Van Parijs 1995: 41-45, 48-51; Cohen 2011: 166-167

⁹⁰ Rawls 2001: 58-59; Cohen 2011: 166-167; Lovett 2010: 41. Van Parijs (1995: 41-45, 48-51) argues that distributing income "*in cash*" is less paternalistic than distributing consumption goods "*in kind*".

⁹¹ Van Parijs 1995: 41-42. See also: Rawls 2001: 137-138; O'Neill, in O'Neill & Williamson 2012a: 3-5, 77-90

⁹² Van Parijs (1995: 51-52) underlines that this is a solution for the allocation of external goods.

⁹³ Rawls 2001: 58-59; Van Parijs 1995: 41-45, 48-51; Sen 1992: 28-30, 102-116; Pogge 2002: 213-217

⁹⁴ MacCallum 1967: 314

⁹⁵ This is the neo-hobbesian definition mentioned by Lovett (2010: 69).

immediately see how the concept of “real freedom” can absorb this first interpretation of “power”. This allows distinguishing the general goal of maximizing real freedom (“*power to*”), on one hand, and the various factors influencing real freedom, on the other hand, such as the “*power over*” others or over important decisions affecting others. *Power over* others is a more restricted understanding of power that is closer to what we generally understand when we think of power relations within society⁹⁶.

Political and economic organizations do not only distribute income and capital. They also create positions of authority and responsibility. These positions are associated with powers and prerogatives when it comes to taking important decisions affecting others. An unequal distribution of power can have important effects on the capacity of some to impose their decisions on others and thus on the freedom of the latter to realize their plans in life⁹⁷. I think that the most systematic analysis of power understood in this sense is provided by the concept of domination in neo-republican theories. It can be integrated into the list of primary goods.

Dahl proposes an intuitive definition of power: “A has power over B to the extent that he can get B to do something that B would not otherwise do”⁹⁸. But we need to add something to this definition: “A has power over B to the extent that he can get B to do something that B would not otherwise do, or forbid him to do something he would otherwise want to do”. This definition is very similar to the one proposed by neo-republicans. For instance, Lovett defines social power as follow: “One person or group has *power over* another if the former has the ability to change what the latter would otherwise prefer to do – i.e., change the strategy the latter would otherwise select from their opportunity set”⁹⁹.

For Lovett, an individual having power over others or over decisions affecting others can interfere with their plans in life in two ways: he can influence the preferences of others and he can raise or reduce the benefits or the costs associated with some decisions. By contrast, if power relations are more egalitarian, everyone can better evaluate their own preferences and better control the long-term realization of their plans in life. But Lovett underlines that power is not a characteristic of *individuals* but rather of *social positions*. Individuals can have power over others only because they occupy a social position inside a social structure. Power is also a *positional good* in the sense that one’s relative place in the distribution of the good affects one’s absolute position. In our case, the power A has over B or over decisions affecting B depends on the relative positions of power of A and B within the social structure¹⁰⁰.

Because power is a positional good, the distribution of power is what matters for justice. When social organizations distribute power over others or over important decisions unequally among social positions, there is *domination*. Reducing power inequalities within organizations reduces domination, which allows individuals to better control the realization of their plans. Lovett recognizes that other goods like income are important to be really free. Yet, protecting people from domination has a specific function: protecting individuals from arbitrary interference by others in their life plans by limiting the capacity of others to force them to do what they don’t want to do or prevent them from doing what they would like to do¹⁰¹.

⁹⁶ It is not real freedom (“*power to*”) but social power (“*power over*”) (Lovett 2010: 64-78).

⁹⁷ Rawls 1993: 304-310, 2001: 58; Fleurbaey 2006: 87; Lovett 2010: 71-74; Arnold 2012 : 96-97

⁹⁸ Dahl 1957: 202-203

⁹⁹ Lovett 2010: 75. For his complete definition of power, see: Lovett (2010: 71-75).

¹⁰⁰ Lovett 2010: 71-75

¹⁰¹ This is how Lovett (2010: 135, 144, 147-151, 170-171) defines non-domination. The advantage of Lovett over other republicans is that he uses a metric of freedom and opportunities to define domination.

Basically, distributing power more equally protects people from domination and thus helps them to secure their situation and the bundle of other goods they have access to over time:

The social bases of protection from domination: The various social conditions and all-purpose means generally necessary to secure to citizens control over the decisions affecting their life and to protect them from arbitrary interference by others¹⁰².

First, protection from domination is a *polyvalent* good. Non-domination helps to make sure that the result of important decisions affecting one's life are not determined by others. Power often serves to force negotiation between all the parties affected. On the long run, having more power helps to anticipate the result of the decisions affecting our lives, and thus to get enough time to adapt our strategies¹⁰³. To secure real freedom, it is rational to prefer some degree of protection from domination at least to secure our share of the other valuable goods. It would be too risky to accept more of other goods in exchange for less power because more powerful people could then use their power in the future to deprive us of these other goods¹⁰⁴.

Second, protection from domination also has *workable* social bases. Political freedoms, the distribution of income and capital but also decision-making processes in public or private organizations are among these social bases. Concretely, distributing power more equally to protect everyone from domination requires democratic governments and checks and balances for instance. Some go further and suggest that public institutions should also reduce income and capital inequalities and inequalities of power over economic decisions¹⁰⁵. For instance, Piketty demonstrates that a minority of people owns the majority of capital. Therefore, they accumulate a lot of power over important economic decisions¹⁰⁶. Authors such as Young and Malleson think that equalizing power would require reducing power inequalities inside private organizations. They underline that the structure of firms creates inequalities of power to influence decisions about the organization of work or investments choices¹⁰⁷. Finally, citizens within states and workers within unions and firms often ask for more power and less domination: protection from domination thus makes sense in the public debate¹⁰⁸.

Yet, for protection from domination to be a workable good, it must be possible to measure power and power inequalities. Slavery is an extreme form of power inequality or domination because the master has an almost absolute power and the slave no power at all. But there are degrees of domination. Some power relations are more or less unequal depending on the degree to which someone can force another to change his strategy to realize his life plans. Lovett acknowledges that power is difficult to measure but he thinks it is possible to provide an evaluation of power inequalities. He proposes to measure the power of one individual or group A over another individual or group B by measuring the degree to which A can modify

¹⁰² Lovett 2010: 75-78

¹⁰³ Lovett 2010: 75-78. Fleurbaey (2006: 91) also understands power as the degree of control people have on their own life : “ce n’est pas seulement l’influence des intérêts économiques et financiers sur la politique qui est problématique, c’est l’ensemble des réseaux de pouvoir qui font que le sort des individus dépend de forces qui leur échappent”.

¹⁰⁴ Lovett (2010: 80) thinks power relations should be understood independently of individuals' desires. The fact that I don't desire to dominate others does not mean that the state should not implement institutional structures to prevent me doing so. Similarly, the fact that I don't want at a point in time to exercise my bargaining power does not mean that institutional structures should not protect me from domination.

¹⁰⁵ These politics are useful to secure the first principle (Rawls 2001: 137-138; O'Neill in O'Neill & Williamson 2012a: 81-84; Stiglitz 2012: 181-211, Malleson 2014: 137-140). Protection from domination is also important to secure fair equality of opportunities (Freeman 2007: 135) and to plan our lives (Lovett 2010: 80).

¹⁰⁶ Piketty 2013: 196, 385

¹⁰⁷ Young 2006: 94; Gosseries & Ponthière 2008: 3-9; Malleson 2014: xiv, 6, 140, 158

¹⁰⁸ Stiglitz 2012: 181-211; Young 1990: 39-42, 56; Anderson 1999: 312-314; Malleson 2014: 47-49

the opportunities B chooses to realize compared to a situation in which A would be absent. This is a good method, even if this difference may be difficult to evaluate¹⁰⁹.

Finally, purchasing power and protection from domination can be considered as *separated* goods. To begin, slaves have more freedom when they receive some material advantages, even in the absence of any power. Slaves arguably have no power, are dominated and don't necessarily have access to education for instance. Moreover, if the master decided that no amount of money could buy their freedom, their money is useless to get out of slavery. Yet, some income would provide them some freedom to buy goods. Therefore, purchasing power is useful to exchange goods, and it remains true no matter how much power we have¹¹⁰.

Then, some level of income or capital can help to get many other goods including political influence or bargaining power¹¹¹, but this is not true in all institutional arrangements¹¹². As I said, income cannot always be converted into bargaining power¹¹³. Some firms pay their workers above their marginal productivity precisely in order to *increase* their power over them: indeed, because this increases the cost of risking to be fired, workers tend to accept bad working conditions without complaining¹¹⁴. Besides, income is not the only determinant of power. Decision-making processes inside firms are also important¹¹⁵. Income is thus separated from power because having one does not *necessarily* lead to obtaining the other.

Protection from domination is thus a very *polyvalent* good and its social bases are *workable*. *Ceteris paribus*, having more protection from domination translates into more real freedom¹¹⁶.

The social bases of self-governing capacities

Social and economic organizations are not only working environments, they are also learning environments in which we can develop (or lose) some important capacities required to make an intelligent use of our resources. For Rawls, positions of authority and responsibility do not only influence the distribution of power over decisions but also the development of various "self-governing and social capacities of the self"¹¹⁷. It consists in the two moral powers: the capacity to formulate, revise and rationally pursue his own conception of the good life and the capacity to develop a sense of justice¹¹⁸. While protection from domination consists in external safeguards protecting us against arbitrary interference, self-governing capacities are the internal mental capacities necessary to make autonomous choices. Here is a definition:

The social bases of self-governing capacities: The various social conditions and all-purpose means necessary for citizens to develop their self-governing capacities to reflect on their preferences, use efficiently their resources to realize their plans in life, develop a sense of justice, claim what they are entitled to and respect their obligations¹¹⁹.

¹⁰⁹ Lovett 2010: 55, 78-82

¹¹⁰ Toner (2015) explains the kind of rewards or incentives given to slaves in the Roman Empire.

¹¹¹ Huge income and wealth inequalities create power inequalities and domination (Rawls 2001: 137-138; O'Neill in O'Neill & Williamson 2012a: 81-84; Stiglitz 2012: 181-211). By contrast, a basic income gives individuals more bargaining power (Van Parijs 1995: 20-29, 32-38; Lovett 2010: 196-200).

¹¹² Shapiro & Stiglitz 1984: 433

¹¹³ Van Parijs 1995: 20-29, 32-38

¹¹⁴ Shapiro & Stiglitz 1984: 433

¹¹⁵ Young 2006: 94; Hsieh 2009: 408. Malleson (2014: 137-152) explains how the wealthy few often threatened in the past some states to force them to turn back on democratic decision by making powerful "capital strikes".

¹¹⁶ Lovett 2010: 142-143; Young 1990: 39-42, 56; 2006: 94

¹¹⁷ Rawls 1993: 308; 2001: 57-59, 175; Arnold 2012: 98

¹¹⁸ Rawls 2001: 57-60, 175; Freeman 2007: 297

¹¹⁹ Rawls 2001: 57-60, 175; Freeman 2007: 297; Arnold 2012: 101, 114

Therefore, Arnold thinks we should understand powers and prerogatives of offices to be “the social bases of the internal resources of self-governing and social capacities”:

I argued that we should interpret powers and prerogatives of offices as referring to the social bases of the internal resources of self-governing and social capacities [including] the internal resources of intelligence and virtuosity – resources that, according to well-established social theory, are importantly conditioned by the nature of people’s work, and in particular by job complexity. [...] I am thinking, more specifically, of the way in which offices and positions involving complex work cultivate the internal resources of intelligence and virtuosity. [...] By “intelligence” I mean the ability to reason, to plan, to solve problems, to think abstractly, to comprehend ideas, and to learn. By “virtuosity” I mean skillfulness or cultivated aptitude. Generally speaking, more intelligence and virtuosity make for more effective agency. Other things equal, a sharp and skillful person enjoys greater prospects of success across a wider range of endeavors than someone who is dull and incompetent¹²⁰.

First, self-governing capacities are very *polyvalent* goods. Arnold restricts these capacities to the basic capacities allowing people to be autonomous, to learn by themselves, to make abstract reasoning, take initiatives and understand the complex issues that affect their plans in life. These capacities are useful to any plan in life. In fact, no matter how much of other goods we have, these capacities are useful to make an intelligent use of them. As Arnold says, someone is of course in a better position to realize any plan in life if he is intelligent and competent than if he is dull and incompetent. Similarly, someone is in a better position if he is able to reason and to control his impulses than if he is irrational and impulsive¹²¹.

The intuition that freedom requires self-governing capacities can be found elsewhere in the literature. Anderson thinks that political equality in democratic societies and the real capacity to make sound choices rely on the distribution of some basic capacities like the capacity to identify options open to us and the capacity to deliberate and reflect about our plans in life and the means to realize them. Nussbaum, Wolff and De-Shalit also mention capabilities like “sensibility, imagination, and thinking”¹²². According to Deakin, the law often includes the intuition that some capacities to make reasoned and independent judgments are important to be able to enter into legitimate contractual relations and to use the resource at our disposal. Age proxies or mental illness diagnosis are often used to evaluate individuals’ capacities¹²³. Yet, one might think that age proxies are insufficient and that institutions should make sure that people develop self-governing capacities to make reasoned and independent judgments.

Second, self-governing capacities have *workable* social bases. They include income, education or the way positions of authority and responsibility are organized. Authors like Arnold or Young also underline that we should include decision-making processes and division of labor inside organizations (for instance, how complex tasks are divided)¹²⁴.

¹²⁰ Arnold 2012: 101, 114

¹²¹ Anderson 1999: 317-319; Arnold 2012: 98-99, 101, 114, Miller & al. 1979: 66

¹²² Anderson 1999: 318, 328; Wolff & De-Shalit 2007: 126-127; Miller & al. 1979: 66. Distributing these capacities is important to respect the first principle. To protect real freedom of expression for instance, legal protections are insufficient. Authoritarian and heavy institutional structures and the precarious situation of workers, the risk of judicial conflict, the lack of proper legal knowledge and the lack of capacities to argue in front of employers often discourage workers to express criticism. As Anderson (1999: 317-319) underlines, real freedom of expression requires confidence in our capacities. It is also useful for the second principle, in order to use intelligently our resource, and identify good opportunities (Arnold 2012: 101-102; Miller & al. 1979: 66).

¹²³ Deakin, in Deakin & Suppiot 2009: 18-19

¹²⁴ Arnold 2012: 103, 114; Miller & al. 1979: 66. Young (2006: 92-93) is right to underline the importance of division of labor. It should not create so few occupations allowing to develop self-governing capacities and to take part in decision making and a majority of occupation that are repetitive and of low status.

Finally, purchasing power or protection from domination and self-governing capacities can be considered as *separated goods*. Some level of income and wealth helps to develop such capacities, but this is not true under all institutional arrangements (i.e. if education is very costly or of very bad quality). Moreover, as I just mentioned, income and wealth, or protection from domination, are not the only social bases of self-governing capacities¹²⁵.

Self-governing capacities are thus a very *polyvalent* good and their social bases are *workable*. *Ceteris paribus*, having more self-governing capacities translates into more real freedom.

The social bases of self-respect

Rawls thinks that the most important primary good is “the social bases of self-respect”. The pages in *Theory of justice* in which he describes what he understands by self-respect are among the most intelligent and sensitive ones in political philosophy. Beyond the power of the rational construction that his theory represents, these pages make us measure the giant mind and the sensitive man behind it. In these few pages, he really touched, I think, something fundamental about human beings¹²⁶. For Rawls, self-respect has two aspects:

First of all, [self-respect] includes a person’s sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out. And second, self-respect implies a confidence in one’s ability, so far as it is within one’s power, to fulfill one’s intentions. When we feel that our plans are of little value, we cannot pursue them with pleasure or take delight in their execution. Nor plagued by failure and self-doubt can we continue in our endeavors. Without [self-respect] nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism¹²⁷.

Self-respect has social bases. Institutional structures influence the way individuals consider themselves and one another. Some institutions make people see each other as adversaries or competitors whereas others help people to have a positive conception of their person:

The social bases of self-respect: The various social conditions and “those aspects of basic institutions normally essential if citizens are to have a lively sense of their worth as a person and to be able to advance their ends with self-confidence”¹²⁸.

First, self-respect is a *polyvalent* good. Rawls is right to underline that having a sense of our own value is important to have the confidence and motivation to pursue any plan in life¹²⁹. Self-respect is also very important to be able to develop meaningful relationships with other people. The intuition that self-respect is important is also found in theories of recognition. Social recognition is often (but not always) an important factor influencing individuals’ self-respect. Therefore, institutions should provide everyone with a fair access to social positions that have some social recognition¹³⁰. Wilkinson and Pickett also argue that many social problems associated with inequality are less due to absolute levels of wealth than to relative levels. Some positions are thus regarded as having a higher status than others¹³¹.

Second, self-respect has *workable* social bases. The existence of a scheme of equal basic formal freedoms secured by the first principle is important. This is because the way

¹²⁵ Anderson 1999: 317-319; Arnold 2012: 98-99, 101, 114; Young 2006: 92-93

¹²⁶ Rawls 1971: 440-446

¹²⁷ Rawls 1971: 440

¹²⁸ Rawls 2001: 59

¹²⁹ Rawls 1971: 440-446; 2001: 59; Freeman 2007: 113; Hsieh 2009: 401

¹³⁰ Anderson 1999: 312-314; Fraser 2005: 16-21, 31-37; Young 2006: 93

¹³¹ Wilkinson & Pickett 2010: 24-26, 31-45, 95. See also: Axelsen & Nielsen 2015

institutions are organized has an expressive value. Equal formal freedom and equality before the law, for instance, send the message that all citizens are equal¹³². Self-respect also relies on the fair distribution of other primary goods because by providing fair access to the means to realize their plans in life, whatever they may be, irrespective of gender or social or cultural origin, institutions also express an equal concern for everyone's real freedom.

But precisely because equal basic formal freedoms and a just distribution of other primary goods *are* the workable social bases of self-respect, it cannot be considered as a *separated good*. This will be discussed in Chapter 5, in which I analyze how to distribute social primary goods. However, the fact that a just distribution of other primary goods is important to secure self-respect strengthens the case for a just distribution of each of these other primary goods¹³³.

The indexing problem and the substitutability of primary goods

Theories of justice involving the distribution of several goods raise at least one problem. How to aggregate several goods into one single metric? This is the *indexing problem*¹³⁴. Indeed, it is easy to understand how to apply a distributive pattern to the distribution of one good like income. But things get more difficult when it comes to distributing an *index* of many goods. This raises the issue of their substitutability. For instance, some income could replace some power. If goods are substitutable, distributing *all* goods might not be required. Rawls was well aware of this *indexing problem*¹³⁵. I leave aside this problem for now. In Chapter 3, I will propose an objective solution to the indexing problem allowing the aggregation of several social primary goods into a single measure of overall real freedom.

5 – Pattern: How to understand the second principle?

Beyond the general presumption against legal restrictions and the equal protection of basic freedoms, individuals cooperating in society want to secure their real freedom. Therefore, they want their fair share of the means of real freedom. This is why public institutions should promote a socio-economic system realizing a just distribution of the means of real freedom¹³⁶. But *what is a just pattern for the distribution of real freedom?*

The reasoning leading to the second principle

Rawls argues that rational citizens want to maximize their real freedom and thus their share of social primary goods. Therefore, it is rational for everyone to prefer the highest bundle that is at the same time acceptable to others. Behind the veil of ignorance, everyone ignores the social position they will occupy in society. Therefore, because everyone is at risk of ending up in the worst social position, everyone can agree to maximize the bundle of goods attached to the lowest social position. This leads to the second principle:

Second principle: “Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity”¹³⁷.

¹³² Rawls 2001: 60, 114. Cf. Chapter 1

¹³³ From now on, except when explicitly mentioned, purchasing power, protection from domination, self-governing capacities and self-respect will always implicitly refer to the distribution of their social bases.

¹³⁴ Rawls 1971: 93-94; Arneson 1990: 445-446; Fleurbaey 2007: 633-636

¹³⁵ Rawls 1971: 93-94. Fleurbaey (2007: 633-636) underlines that Rawls answer is unsatisfying.

¹³⁶ Rawls 1971: 90-95; 1993: 283-284; 2001: 50-51, 63; Sen 1992: 59; Pogge 2002: 177, 190-191; Freeman 2007: 109, 125; Lovett 2010: 41; Cohen 2011: 172

¹³⁷ Rawls 1971: 83

This section only aims at explaining the well-known reasoning leading the second principle:

a. *The difference principle*: Rational citizens want to maximize their real freedom and thus their share of social primary goods while minimizing their burdens. In a static system, the only rational agreement would be a strictly equal distribution of benefits and burdens. This is an instrumental justification for distributive equality. Because everyone wants to maximize their benefits and minimize their burdens, they want the highest bundle of goods and the lowest burden that is acceptable by others, and that means an equal bundle of benefits and an equal burden. But in dynamic systems, which are not zero-sum games, some inequalities can be very useful to make the whole system more productive and efficient. For example, attaching more goods to a social position can serve as an incentive to attract individuals in the most demanded sectors, or it can serve to put the resources in the hands of those best able to make the most of it¹³⁸. The surplus created by a more productive and efficient socio-economic system can be redistributed through taxes and transfers. This could maximize the bundle of goods attached to the lowest positions compared to a situation of strict equality. These are the only conditions under which it is rational for everyone to accept inequalities, including for the ones who will eventually end up in the least advantaged social positions¹³⁹.

Note that the difference principle does not justify any inequality that would increase the situation of *today's* worst-off. This could justify large inequalities and somehow justify a situation near the status quo. But the difference principle is far more demanding. Considering all possible socio-economic systems, inequalities are acceptable if and only if they are *necessary* to maximize bundle of social primary goods attached to the lowest social position, *taking the situation of strict equality as the benchmark of comparison*¹⁴⁰:

the two principles of justice do not insist that the actual distribution conforms at any given time (or over time) to any observable pattern, say equality, or that the degree of inequality computed from the distribution fall within a certain range, say of values of the Gini coefficient. What is enjoined is that (permissible) inequalities should make a certain functional contribution to the expectations of the least favored [...]. The two principles express the idea that no one should have less than they would receive in an equal division of primary goods, and that when the fruitfulness of social cooperation allows for a general improvement, then the existing inequalities are to work to the benefit of those whose position has improved the least, *taking equal division as the benchmark*¹⁴¹.

The distribution should, therefore, be equal *prima facie*. The only publicly acceptable concession is based on efficiency concerns¹⁴². The difference principle aims essentially at answering the “leveling down” objection. If inequalities benefiting everyone were not accepted, this would mean that institutions could reduce the real freedom of everyone, including the least well-off, because equality would be somehow *intrinsically* valuable, independently of the objective advantage of everyone involved. In a liberal non-perfectionist view, this is unacceptable. This would also be irrational for everybody, as Arnold underlines:

Society should take into account economic efficiency and the requirements of organization and technology. If there are inequalities in income and wealth, and differences in authority and degrees of responsibility, that work to make everyone better off in comparison with the benchmark of equality, why not permit them¹⁴³?

¹³⁸ Van Parijs, in Freeman 2003: 203-204

¹³⁹ Rawls 1971: 11-17; 2001: 63-64

¹⁴⁰ Rawls 1971: 11-17; 1993: 283-284; 2001: 71, Van Parijs, in Freeman 2003: 204-207; Freeman 2007: 99

¹⁴¹ Rawls 1993: 283-284 (*my italics*)

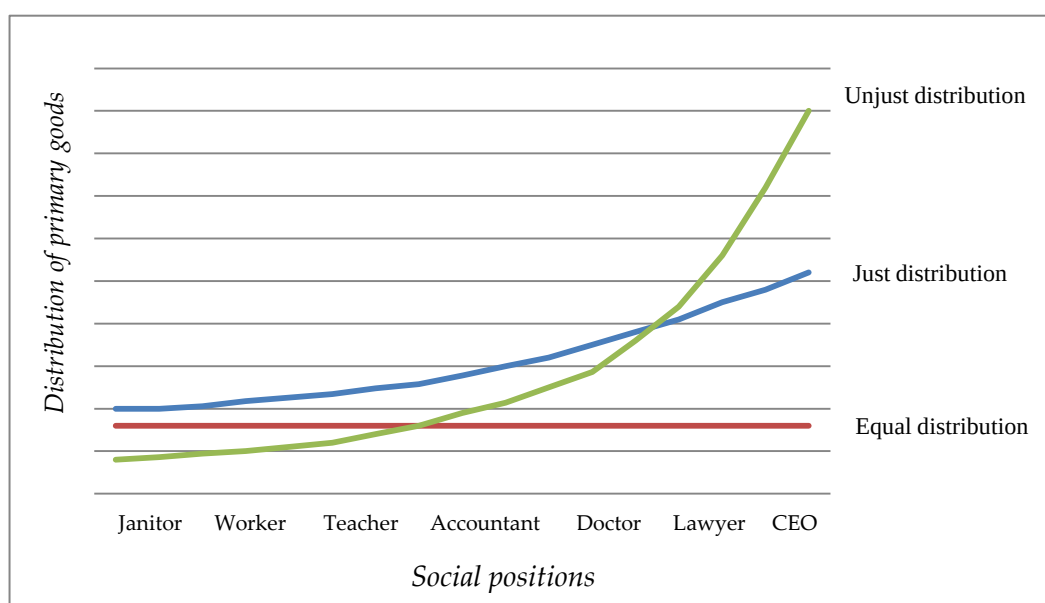
¹⁴² Rawls 1971: 11-17, 1993: 281-282; 2001: 42, 61-72

¹⁴³ Arnold 2012: 105

b. *Fair equality of opportunity*: Once goods are distributed between social positions, the question is: how to decide who will occupy which social position? If all social positions were identical, there would be no need to worry about whom gets which position. But if there are inequalities between social positions in terms of benefits and burdens, it becomes important that the principle attributing social positions to individuals is acceptable by all. Because of the presumption of formal freedom of occupation, and because individuals have the best information concerning which social position fits their plans in life at any point in time, the only acceptable method to attribute social positions to people is to let individuals choose by themselves. This means that social positions should be open to all and, if many want the same positions, they should enjoy equally the means necessary to have equal chances to get it. This is the most egalitarian way to allocate social positions without discrimination.

Of course, I already underlined that people have different abilities and needs. If we give everyone equally the means necessary to have equal chances, handicapped people may still end up with fewer chances than other people. But the difference principle and its concern for efficiency provide a public reason to accept such remaining inequality. Indeed, spending collective resources in order to make blind people able to fly planes, for instance, would be very disadvantageous for everyone, including blind people. Therefore, a social position should be open to all *given equal talents* to efficiently perform the task attached to it¹⁴⁴. This is what Rawls means by *fair equality of opportunity*¹⁴⁵.

Table 3 : Second principle



The second principle guides the distribution of goods to *social positions* (Janitor, worker, teacher, accountant, doctor, lawyer...). People have access to goods by occupying one.

a. An equal distribution is not just because in a dynamic system, some inequalities are acceptable if and only if they benefit everyone. But inequalities are not acceptable by the least well-off if they don't benefit them. A just distribution maximizes the benefits attached to the least advantaged social position, compared to strict equality.

b. Access to social positions should respect the principle of fair equality of opportunity.

¹⁴⁴ Rawls 2001: 42-44; Freeman 2007: 88-92. This justification is controversial but I do not discuss it.

¹⁴⁵ Pogge 2002: 186-187, 196-197. This is an argument against any priority between a. and b.

Two clarifications about the second principle

i. A *first clarification* is needed to explain the difference between the interpretations of the second principle as *maximin* and as *leximin*. I will argue that this distinction is justified theoretically but in practice, both principles turn out to have exactly the same outcome.

Rawls argues that the second principle requires maximizing the bundle of goods attached to the social position of the least well-off. This is *the maximin*. But he does not go further to explain what justice requires from other social positions. The reason is that he assumes that there is always a general diffusion of the benefits created by dynamic systems. He assumes that only two possible scenarios are possible in practice: either a given inequality between a higher position and the position of the least well-off is necessary to maximize the situation of the least well-off, or this inequality is not necessary and then there is always an institutional mean to redistribute part of the resources from higher positions to lower positions.

However, if we suppose that there are situations in which a given inequality between a higher position and the position of the least well-off is not necessary to maximize the situation of the least well-off *and* that there is absolutely no way to redistribute part of the resources from the higher position to the lowest position, then we should adopt the principle of *leximin*: public institutions should first maximize the situation of the least well-off, and then, once it is impossible to maximize its situation further, public institutions should maximize the situation of the second least well-off and so on. This is a sound theoretical distinction but it changes something to our normative conclusion only if such a situation does exist in practice¹⁴⁶.

Instead, I think that Rawls is right to assume that there is always an institutional arrangement allowing the transfer of at least a part of the advantages that are not required to make the system more efficient to the least advantaged, by taxation for instance. The situation of anyone above the least well-off is justified only if the advantages they get are required to put in place an appropriate structure of incentives¹⁴⁷. If this is true, then the *maximin* and the *leximin* will always select the same situation as the just situation.

ii. A *second clarification* is necessary to stress the importance of motivation-conscious institutional engineering. It is very important to underline that institutions should be designed while bearing in mind that the way they are designed influences the incentives that will be required to motivate individuals to work. The way institutions divide tasks or organize work shapes individuals' expectations in terms remuneration and other advantages¹⁴⁸. For instance, Piketty underlines that the existence of a small class of CEOs creates group expectations and a culture of luxury among CEOs. This motivates CEOs to ask for always higher compensations. By contrast, cooperatives are often efficient while keeping very small internal income gaps¹⁴⁹.

Therefore, some institutional arrangements may be better at maximizing the situation of the least well-off, not only because they produce appropriate incentive structures, but also because they shape individuals' preferences and expectations so that lower shares of social primary goods are required to incentivize them to work, leaving larger shares for the least well-off. The difference principle recommends choosing the system that maximizes the situation of the least well-off compared to all the other possible institutional arrangements¹⁵⁰.

¹⁴⁶ Rawls 1971: 82-83, Van Parijs, in Freeman 2003: 205-210

¹⁴⁷ Rawls 1971: 82-83 (the first edition is even clearer on this issue); 2001: 67-68; Freeman 2007: 118

¹⁴⁸ Rawls 1971 : 82-83, 2001 : 67-68, Van Parijs, in Freeman 2003 : 208, Freeman 2007 : 118

¹⁴⁹ Piketty 2013: 497-533. See also: Stiglitz (2012: 106-116). For cooperatives, see: Malleson 2014: 54-89

¹⁵⁰ Van Parijs, in Freeman 2003: 227, 230

6 – Pattern: Should egalitarianism be responsibility-sensitive?

To sum up what has been argued so far concerning the pattern of justice, the pattern involves two related requirements: *a.* maximizing the bundle of primary goods attached to the lowest social position, compared to strict equality (*the difference principle*) and *b.* securing to all a *fair equality of opportunity* to access social positions. This pattern is based on the fact that rational individuals would agree to tolerate inequalities only if they benefit everyone because of efficiency advantages. This reasoning justifies that individuals can legitimately expect only the bundle of goods that they can access inside a cooperative scheme designed so that it maximizes the expectations of the least well-off. This is what Rawls calls people's *legitimate expectations*. After explaining how we should understand what legitimate expectations are, I will argue against another popular concession often made to equality: the concession that egalitarianism should be sensitive to individual moral responsibility¹⁵¹.

Legitimate expectations

The difference principle is the only acceptable justification for inequality. The difference principle means that people have to bear some of the consequences of their actions. But this claim should be understood in a totally “non-moral” way. People should bear some of the consequences of their actions, not because they are “morally responsible” for their actions, or because they “deserve” the consequences of their actions. They should bear some of the consequences of their actions only because this is in itself a powerful incentive that can be very useful for public institutions to maximize the situation of the least well-off.

For example, individuals committing violent crimes should be put in jail, but neither because they are *morally responsible* for their actions nor because they *deserve* a punishment. They should be put in jail (aside from safety issues) because knowing that this is the consequence of a violent crime is a powerful incentive for others not to commit crimes. Similarly, people losing money at the casino or getting injured in reckless extreme sports should not receive compensation for the entire resulting costs, but neither because they are morally responsible nor because it was their choice. The system should not compensate for all the costs of such reckless behaviors as an incentive for people to avoid blowing up all their money or getting into extreme sports. Otherwise, it would be too costly and would force public institutions to reduce investments in education, health, and other welfare programs, which would reduce the situation of the least well-off. Making people bear some of the consequences of their actions is therefore often useful to maximize the situation of the least well-off¹⁵².

This position has the advantage of avoiding the need to *evaluate* and *agree on* individual responsibility. There is no need to evaluate up to what level people are responsible or not for their gains or losses. People should bear the consequences of their actions only up to the level that is required to set proper incentives and to make sure to maximize the situation of the least well-off. For Rawls, the role of distributive inequalities is not to reward moral merit:

Their role is rather to attract people to positions where they are most needed from a social point of view, to cover the costs of acquiring skills and education abilities, to encourage them to accept the burden of particular responsibilities and to do all this in ways consistent with free choice of occupation and fair equality of opportunity¹⁵³.

¹⁵¹ Rawls 1971: 11-17; 1993: 281-282; 2001: 42, 61-72

¹⁵² Rawls 2001: 78. See also: Rawls 1971: 101

¹⁵³ Rawls 2001: 78. Rawls (1971: 101) distinguishes his principles of justice from principles of “redress”.

Once just institutions and rules are established, aiming at maximizing the situation of the least advantaged, these rules create what Rawls calls “*legitimate expectations*”. In a restricted sense, limited to individual agreements, they could be defined as follow:

Those who make and honor [working] agreements have, by definition, a legitimate expectation of receiving the agreed amounts at the agreed time. They are entitled to these amounts. [But] there is no prior and independent idea of what we may legitimately expect¹⁵⁴.

This definition can be extended when it comes to talking about the agreements made at the level of society as a whole to follow the rules of cooperation. Individuals accept the burdens of cooperation at one condition: that public institutions respect principles of justice, including the difference principle. Therefore, individuals can legitimately expect only the bundle of goods that they can access inside a cooperative scheme designed so that it maximizes the expectations of the least well-off. They cannot legitimately expect anything else. For instance, people are not entitled to anything because of any moral merit.

Of course, this is only true when we talk about how public institutions regulate social cooperation and distribute its burdens and benefits. Rawls says that individuals in private associations can decide to reward what they value according to their conception of the good:

a democratic society with its political conception does not see itself as an association at all. It is not entitled, as associations within society generally are, to offer different terms to its members (in this case those born into it) depending on the worth of their potential contribution to society as a whole, or to the ends of those already members of it. When doing this is permissible in the case of associations, it is because in their case the prospective or continuing members are already guaranteed the status of free and equal citizens, and the institutions of background justice in society assure that other alternatives are open to them¹⁵⁵.

To conclude, even if liberal egalitarianism justifies that individuals should bear some of the consequences of their actions, it is still important to note that liberal egalitarianism does not justify to use moral responsibility or merit as a criterion in the distribution of burdens and benefits. People should bear the consequences of their actions neither because they are morally responsible for their actions nor because they deserve a punishment.

Liberal egalitarianism should, therefore, reject two common understandings of moral responsibility or merit. First, even if a distributive conception of justice is sensitive to the fact that people need to cooperate to produce resources, this does not mean that there is a moral reason to necessarily reward people *proportionally* to their work or their contribution to the production. Second, even if the metric is understood in terms of the bundle of social primary goods attached to social positions, and even if people are left to choose the position that best fits their preferences, this does not mean that people should be held *morally accountable* for their choices. There are no good or bad choices that would deserve reward or punishment. A distributive conception of justice simply means that people’s share of social primary good should only depend on the *incentives* that are necessary to motivate people to work and make reasonable life choices. But if suddenly, we reach a state of abundance, there would be no reason left to make people bear the consequences of their actions and no injustice left if someone contributing more to social cooperation were to end up with less than someone contributing less. As Van Parijs argues, we should consider all social resources as a gift that needs to be distributed in a way that maximizes the expectations of the least well-off¹⁵⁶.

¹⁵⁴ Rawls 2001: 72. See also : Rawls 1971 : 310-315; 2001: 72-74, Scanlon 2013: 25-27

¹⁵⁵ Rawls 1993: 42

¹⁵⁶ Van Parijs exposed this interpretation in a conference in Louvain-la-Neuve (Van Parijs & Fleurbaey 2016)

Egalitarianism should not be responsibility-sensitive

I will now argue in more details why, as far as public institutions and the distribution of burdens and benefits of cooperation are concerned, the only reason justifying distributive inequalities is the difference principle. In particular, I will explain why we should reject the idea that egalitarianism should be responsibility-sensitive.

Luck egalitarians such as Kasper Lippert-Rasmussen argue that another reason can justify inequalities between people. They think that inequities are justified if they result from the choices of individuals. Public institutions should thus compensate individuals for inequalities resulting from contingent circumstances beyond their control (social background, biological determinants, brute luck) but should not compensate them for the inequalities resulting from free choices because they are *morally* responsible for the consequences of their choices.

This means that if someone freely commits a crime, he deserves a punishment, and the punishment should not be commensurable to the incentive that is sufficient to deter crime but should be commensurable to his moral responsibility or the severity of his crime. Similarly, if someone works less or spends more money than the others, he deserves the low purchasing power resulting from it, and the amount of compensation he should get for his losses should not be decided by which incentives are sufficient to motivate him to work or to spend less, but should be decided by some evaluation of how much money loss is due to his own choices¹⁵⁷.

According to Kasper Lippert-Rasmussen, luck egalitarianism is defined by this principle: “A situation is unjust if someone is worst of than others because of his bad luck”¹⁵⁸. As Anderson states it: “luck egalitarians say that, assuming everyone had equal opportunity to run a particular risk, any outcomes due to voluntary choices whose consequences could reasonably be foreseen by the agent should be born or enjoyed by the agent. The inequalities they generate [do not] give rise to redistributive claims on others...”¹⁵⁹. Therefore, depending on what is assumed to result from circumstances or choices, distributive requirements are more or less important. Most people, including Rawls, think individuals should not be considered morally responsible for what results from three types of contingent circumstances:

The least advantaged are defined very roughly, as the overlap between those who are least favoured by each of the three main kinds of contingencies. Thus this group includes persons
[1-] whose family and class origins are more disadvantaged than others,
[2-] whose natural endowments have permitted them to fare less well, and
[3-] whose fortune and luck have been relatively less favourable¹⁶⁰.

First, most people think individuals are not responsible for the inequalities resulting from their social background (ex. the existence of casts or racial stereotypes, or the social origin of their parents). Second, most people think individuals are not responsible for inequalities resulting from their natural talents or handicap (intelligence, strength, the capacity to work, physical appearance and so on). People often say that they own their talents and should be able to take advantage of them. But Scanlon recalls that if some talents are natural, their socio-economic value on the market (whether they are “talents” or “handicaps”) is not natural. The market value of talents largely depends on the social context, the organization of labor and the distribution of preferences in society. There is no reason for anyone to claim responsibility for

¹⁵⁷ Rawls 2001: 61-72. See also: Lippert-Rasmussen 2015

¹⁵⁸ Lippert-Rasmussen 2015

¹⁵⁹ Anderson 1999: 295

¹⁶⁰ Rawls (*Collected Papers*) cited in: Van Parijs, in Freeman 2003: 214

the market value of his talents¹⁶¹. Third, most people think individuals are not responsible for inequalities resulting from brute luck (like a natural catastrophe). Most people consider potential inequalities resulting from these contingencies as unjust¹⁶². Therefore, it is rational for everyone to insure themselves from the outcomes of bad luck. For Anderson:

Luck egalitarians thus view the welfare state as a giant insurance company that insures its citizens against all forms of bad brute luck. Taxes for redistributive purposes are the moral equivalent of insurance premiums against bad luck¹⁶³.

In a political liberal framework, the argument of luck egalitarians would be that the more advantaged people can justify their position to the least advantaged if they can demonstrate that their respective position is the result of individual choices. But is this really an argument that everyone could accept, including the least advantaged? What are the inequalities that are really the result of individual choices? Luck egalitarians argue that two kinds of choices can justify inequalities: choices concerning our *contribution* to the cooperative scheme, and choices concerning our individual *life choices*, including consumption choices for instance¹⁶⁴. I will now refute the idea that our contribution and life choices justify inequalities.

Why egalitarianism should not be sensitive to contribution

Most of our personal productive capacity is influenced by our social background, natural talents, and brute luck. But suppose that the effects of these contingencies can be neutralized (which is not necessarily possible)¹⁶⁵. Individuals may be held responsible for their personal contribution to social cooperation. Inequalities deriving from unequal contributions would be *deserved* and thus justified. But how can we assess the value of personal contributions?

One possible way to assess the value of “personal contributions” can be traced back at least to Locke. Everyone should have the right to the “fruit of their labor”. Everyone has a particular right on his own person. Therefore, the labor of his body and the work of his hands are his property¹⁶⁶. This “labor theory of value” had an important influence on the way classical economists and later libertarians understood property. Yet, this way to evaluate personal contribution is problematic and cannot justify inequalities.

The most important objection is that most social production is not due to individual efforts, but is rather the result of cooperation. To begin, social production depends on the accumulation of material and human capital from past generations, which includes education but also languages and technological innovation¹⁶⁷. Moreover, as Adam Smith underlined, the greatest advancements of labor productivity and most of the ability and intelligence with which it is organized is due to the division of labor. Some people can specialize in lucrative activities only because others do other necessary tasks in the cooperative scheme¹⁶⁸. In addition to accumulation and division of labor allowing for specialization, Rawls and Heath underline many other benefits of cooperation: risk sharing, self-biding and nudging

¹⁶¹ Scanlon 2013: 24, 28-30; Rawls 2001: 74-76, Anderson 1999: 302, 305, 310

¹⁶² Rawls 1971: 101; Van Parijs, in Freeman 2003: 214; Anderson 1999: 302, Cohen 2009: 12-19

¹⁶³ Anderson 1999: 292. See also: Kymlicka 2003: 90-99

¹⁶⁴ Scanlon (2013: 23) criticizes these two common justifications of merit and thinks, with Rawls (2001: 72-73) that any pre-institutional conception of merit should be excluded from a political conception of justice.

¹⁶⁵ This is what Cohen (2009: 12-18) calls “socialist equality of opportunity”.

¹⁶⁶ Locke [1690]: 163. The classical tradition in economics assumed that work created wealth and that the value of goods reflected the labor required to produce them (Smith [1776]: 65, 99-118; Marx [1865]: 40, 47-49).

¹⁶⁷ Rawls 1971: 284-285

¹⁶⁸ Smith [1776]: 71

mechanisms, markets regulation allowing for a proper diffusion of information by the price system, the institutionalization of teamwork and scale economies are only some examples of all the benefits derived from cooperation. The simple fact that people abide by collective rules and avoid violent behaviors is necessary for cooperation¹⁶⁹. Therefore, most of what we produce is due to cooperation and individual efforts contribute for very little in aggregate production¹⁷⁰. As Dietsch puts it, because individuals are interdependent to the same degree, everyone can legitimately claim an equal share of the “cooperative surplus”, meaning the benefits that would not have been produced if everyone was working on his own¹⁷¹.

This is sufficient to rule out the idea that people *deserve* their personal contributions. Yet, if a part of the production was not the result of cooperation but only of individuals’ contributions, wouldn’t individuals deserve to get it? For instance, one proxy could be individuals’ working time. The longer people work, the more they would deserve benefits. The main problem with this solution is that people have different preferences, resistance, and strength. Some people may find a task more demanding than others would, depending on their personal preferences of abilities. Moreover, different economic activities require various degrees of personal effort. Therefore we could evaluate someone’s contribution according to his “efforts”. However, two problems arise when assessing the *value* of individual contributions based on individuals’ efforts. They are *the two same* problems underlined about the possibility of assessing the value of bundles of goods according to personal preferences.

First, the *main* problem is that people *disagree* about the value of personal efforts. There is no shared conception of effort that would be acceptable by all¹⁷². Second, taking into account individuals’ efforts in assessing personal contributions is not *workable*. To begin, there are *epistemic* problems. It is difficult to have access to individuals’ internal state of effort. Then, even if we could assess individuals’ perception of effort, it would require too much information, requiring very *intrusive* and very *costly* policies.

One alternative would be to evaluate the value of individual contributions by evaluating how “useful” goods or services are for society¹⁷³. The problem is again that the plurality of conceptions of the good means that people will *disagree* about this because there is no shared understanding of what is “useful” to society. How to decide whether producing cars is more useful than producing contemporary art with bicycles? Therefore, as in the case of assessing the value of bundles of goods, one solution is to provide an evaluation of contributions that is not based on individuals’ personal conceptions of contribution, effort or usefulness, but would be based on their value on a competitive market.

The value of personal contribution would, therefore, be fixed by supply and demand. The more people ask for some “effort” and are willing to pay for it, the more this effort has value. But if this solution is a very efficient one when it comes to organizing economic exchanges in order to allocate external goods and efforts, it can hardly justify any moral merit. Even in ideal circumstances, a measure of individuals’ marginal productivity has nothing to do with

¹⁶⁹ Rawls 1971: 3-7; Sen 1985: 15, 18; Heath 2006: 313-345

¹⁷⁰ Rawls 1971: 3-7; Heath 2006: 313-345. The economist Herbert Simon (2011) roughly estimates that at least 80% of someone’s benefit is the fruit of someone else labor in the cooperation. It could be more.

¹⁷¹ Dietsch 2008: 103, 105-112, 116. Scanlon 2013: 30. Remember that a distributive conception of justice sets aside handicapped people *temporarily*. Of course, as I underlined earlier, handicapped people are ultimately integrated into the sphere of justice, partly through insurance mechanisms for instance (Rawls 2001: 170-174).

¹⁷² Arnsperger & Van Parijs 2003: 50-53

¹⁷³ The New economic foundation (Steed & Kersley 2009) has published a report proposing this idea and entitled: *A Bit Rich: Calculating the real value to society of different professions*.

their own merit and cannot justify that resulting inequalities are *deserved* in any way, because someone's marginal productivity depends on the production and consumption choices of everyone else on the market, for which nobody can be held morally responsible. For Scanlon:

It may be claimed that... individuals are entitled to a reward proportional to their marginal contribution. But ..., an individual's marginal productivity depends on the demand for what he or she can do and on the contributions others are making, or could make, to the process of production. It depends on the overall productive system and, I would add, on the justifiability of the form of cooperation that this system involves. Contribution in this sense is therefore not a distinct property of the individual that is a basis for a claim of desert¹⁷⁴.

To conclude, no public argument can justify that inequalities are *deserved* because of personal contributions. Instead, individuals receive a share of the socio-economic benefits by holding a social position, thereby assuming some *burdens* in the scheme of cooperation. The bundle of goods attached to specific social positions depends only on the *incentives* that are necessary to make the system productive and efficient and maximize the expectations of the least well-off. Once the distribution *between social positions* is realized, individuals have access to them and *choose* the social position that best fits their preferences for primary goods and their preferences for burdens. Now, what about inequalities resulting from life choices?

Why egalitarianism should not be sensitive to life choices

Even if we rule out the idea that the inequalities based on personal contribution are *deserved*, people still make different life choices with potential distributive consequences. For instance, two individuals may have the same income, but one saves most of it and the other spends everything. Of course, the life choices we make (about work, leisure, consumption, savings or investments) are largely influenced by the social context in which we grow up, our education, the information we have, advertisement and natural talents. But suppose that the effects of these contingencies can be neutralized (which is, once again, not necessarily possible). Is there a public argument to justify that inequalities are *deserved* if they derive from choices?

For luck egalitarians, given two individuals with the same income and similar background, if one saves his income by living a frugal life and the other spends it on frivolities, the resulting inequality in capital accumulation and future income would be *deserved*¹⁷⁵. Even very egalitarian authors such as Cohen think that people morally deserve the outcome of their life choices¹⁷⁶. To begin, inequalities resulting from individuals' conceptions of the good life should be respected¹⁷⁷. Moreover, luck egalitarians hold people morally responsible for the risks they take voluntarily (the typical example being the choice of entering in a gamble)¹⁷⁸. And inequalities resulting from deliberately criminal choices would be deserved and individuals guilty of these choices should be held responsible. In any case, these inequalities would not be unjust and would not require compensation¹⁷⁹. But again, two problems arise when assessing individuals' responsibility. They are *the two same* problems underlined about the possibility of assessing the value of bundles of goods according to personal preferences.

First, the *main* problem is that people disagree about how to assess individuals' responsibility. Rawls rightly underlines that individuals have widely diverse understandings of moral merit

¹⁷⁴ Scanlon 2013: 31. See also: Rawls 1971: 271, 310-315; Scheffler 2001: 191

¹⁷⁵ Anderson 1999: 296, 301; Cohen 2009: 17-19, 25-30

¹⁷⁶ Cohen 2009: 29-30

¹⁷⁷ Cohen 2009: 17-19, 25-30; Fleurbaey 2008a

¹⁷⁸ Anderson 1999: 296, 301; Cohen 2009: 26-31

¹⁷⁹ Cohen 2009: 29-30. Anderson (1999: 296, 301) criticizes luck egalitarians on this ground.

that are based on their personal conceptions of the good. Some think merit depends on religious piety, others think that it depends on free will, others are determinists, and others value individual sacrifice for the worst-off. People with so divergent personal conceptions of moral merit would not be able to *agree* about what kind of choices are worth rewarding or punishing. A liberal conception of justice should, therefore, exclude such comprehensive conceptions of merit and personal responsibility. As Rawls puts it:

A conception of moral desert as moral worth of character and actions cannot be incorporated into a political conception of justice in view of the fact of reasonable pluralism. Having conflicting conceptions of the good, citizens cannot agree on a comprehensive doctrine to specify an idea of moral desert for political purposes¹⁸⁰.

Second, assessing individuals' responsibility is not *workable*. To begin, it raises important *epistemic* problems. Personal conceptions of responsibility depend on personal experiences and contexts, are not necessarily well informed and may change over time. Moreover, it is very difficult to evaluate how authentic or genuine choices are. They are often the result of circumstances like economic pressures and information imperfections. Even Cohen himself underlines that our society can be understood as a large game in which risk is inherent and unavoidable. Yet, people didn't choose to enter this game¹⁸¹. Of course, there are cases that are closer to a real gamble in which people can effectively choose to enter or not. But even then, Rawls claims that any norm requiring an evaluation of moral merit would not be *workable* in practice. Public institutions have no way to evaluate people's intentions and to what extent their free will is really involved in distributive results. This does not involve any claim about whether free will exists or not, but it simply underlines that public institutions do not have access to individuals' intentions and mental states. Therefore, there is no way to distinguish what results from life choices from what results from circumstances¹⁸².

Then, even if everyone could agree on a specific conception of merit and even if there was a way to solve epistemic problems, Anderson underlines that evaluating individuals' responsibility would still not be *workable* because it would require gathering too much information about every aspect of individuals' lives in order to be able to make precise judgments about levels of merit or responsibility. This would be too *intrusive* (i.e. it would unacceptably invade individuals' privacy) and would be very *costly*. As she puts it:

To implement its principles, the state must make judgments of moral desert or responsibility in assigning outcomes to brute or option luck. [...] F. A. Hayek has identified the central problem with such merit-based systems of reward: in order to lay a claim to some important benefit, people are forced to obey other people's judgments of what uses they should have made of their opportunities, rather than following their own judgments. Such a system requires the state to make grossly intrusive, moralizing judgments of individual's choices¹⁸³.

To conclude, there is no publicly acceptable argument to justify that inequalities based on personal responsibility are *deserved*, be it understood in terms of *contribution* or personal *life choices*. Therefore, the bundle of goods attached to specific social positions should only depend on the *incentives* that are necessary to preserve a productive and efficient cooperative system and maximize the expectations of the least well-off. Any other departure from equality is not publicly acceptable and is, therefore, unjust.

¹⁸⁰ Rawls 2001: 73. See also: Rawls 1971: 310-315; 2001: 72-79

¹⁸¹ Cohen 2009: 32-36

¹⁸² Rawls 1971: 310-315; 2001: 73; Scanlon 2013: 25-27. I repeat that such conception does not presuppose anything about the existence or not of free will. Indeed, the same discussion could take place about role responsibility should take in allocating resources between *states* or between *generations*, for which of course not strong conception of "collective free will" can hold

¹⁸³ Anderson 1999: 310-311

Conclusion – Public institutions should maximize the real freedom of the least well-off

In Chapter 2, I have underlined that liberal egalitarianism needs appropriate principles of justice to distribute real freedom. Rawls' second principle of justice expresses in a clearer and more straightforward way a very old intuition existing in many human traditions, which even found its way into Franklin Delano Roosevelt famous quote: "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little". However, this intuition calls for refinements.

Justice requires public institutions to intervene in order to realize a just distribution of real freedom. This requires defining real freedom more clearly, providing a precise *metric* to measure it, a list of *proxies* for public authorities to use, and argue for the just *pattern* of distribution. In short, the question was: *What is a just distribution of real freedom?*

The *results* are the following. Concerning the *metric*, if real freedom is (broadly) the metric of justice, we need to be able to measure individuals' real freedom in a way that is acceptable by all. I argued for an objective metric in terms of "social primary goods attached to social positions". Therefore, despite the whole debate about the metric of justice, it seems that Rawls was right all along. I also proposed a list of social primary goods respecting the two criteria of being the most *polyvalent* and *workable* goods. These social primary goods are inspired by Rawls' list and more contemporary research. The list includes the social bases of purchasing power, of protection from domination, of self-governing capacities and of self-respect. Concerning the *pattern* of justice, I explained the reasoning leading to the second principle. This pattern involves two related requirements: *a.* maximizing the bundle of primary goods attached to the lowest social position, compared to strict equality (*the difference principle*) and *b.* securing to all a *fair equality of opportunity* to access these social positions. I finally argued that egalitarianism should not be responsibility-sensitive.

This chapter mainly serves to set the theoretical framework necessary to analyze distributive issues in the next chapters and to take positions on some specific issues within the liberal egalitarian framework. The *contribution* of this chapter consists in clarifying two points. First, because of the need for a political agreement to stabilize cooperation, I argued that we need an objective conception of the metric of justice which makes sense of the distinction between distributive and allocative justice. The two reasons not to take into account individuals' actual preferences are first, that no *agreement* is possible in a pluralist society and second, that it would not be workable because of epistemic problems and the need to gather too much information (incidentally, these are the two same reasons why egalitarianism should not be sensitive to personal contributions or life choices). Second, while remaining close to Rawls' original intuitions, I proposed a more detailed list of social primary goods.

What's next? The second principle of justice requires maximizing the real freedom of the least well-off. If one can easily understand how to maximize *one* good like income, things get more difficult when it comes to maximizing an *index* of goods. If real freedom is affected by many goods, it may be possible to substitute one good by another in the bundle of the least well-off. But all substitutions might preserve the value of the bundle. This is the *indexing problem*: *which combination of primary goods can maximize the real freedom of the least well-off?* In Chapter 3, I will propose a solution to this problem.

Chapter 3

Liberal Egalitarianism and the Indexing Problem

Which combination of social primary goods can maximize the real freedom of the least well-off?

...But faring on, [Sir Wolf] spies a galled spot on the [Dog's] neck
- "What's that?" [asks Sir Wolf]. - "Oh, nothing but a speck."
- "A speck? Ay, ay". - "It is not enough to pain me;
Perhaps the collar's mark by which they chain me".
- "Chain! Chain you! What! Run you not, then,
Just where you please, and when?"
- "Not always, sir; but what of that?"
- "Enough for me, to spoil your fat!
It ought to be a precious price
Which could to servile chains entice;
For me, I'll shun them while I've wit."
So ran Sir Wolf, and runneth yet.

Jean de La Fontaine – *The Wolf and the Dog*¹

Introduction

I set aside in this chapter all issues regarding *basic formal freedoms* (or "*basic liberties*"). The just distribution of basic formal freedoms is defined by Rawls' first principle stating that "each person has the same infeasible claim to a fully adequate scheme of equal basic liberties"². In Chapter 1, I explained the conditions under which we can reduce the content of basic formal freedoms for the sake of realizing a just distribution of other social primary goods. This issue should be treated independently from possible tradeoffs or substitutions between other social primary goods. As Rawls says: "The basic liberties are always equal, and there is fair equality of opportunity; one does not need to balance these liberties and rights against other values. The primary social goods that vary in their distribution are the rights and prerogatives of authority, and income and wealth"³.

Now that this is emphasized, liberal egalitarian theories of distributive justice also require public institutions to realize a just distribution of the material means of *real freedom*. For Rawls, these are social primary goods⁴. The second principle of justice claims that: "social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*"⁵.

¹ I chose to put in the English translation in exergue to make references easier later on in the text.

² These are basic formal freedoms such as freedom of expression, assembly and association (Rawls 2001: 42).

³ Rawls 1971: 93-94

⁴ This is a possible interpretation of liberal egalitarianism (Rawls 2001: 50-52, 57-61; Van Parijs 1995: 48-51).

⁵ Rawls 1971: 83; 2001: 39-50. Van Parijs (1991: 225) argues for an interpretation in terms of real freedom.

This means that for liberal egalitarians, public institutions should maximize the index of social primary goods attached to the social position of the least well-off. But if one can easily understand how to maximize *one* good such as income, things get more difficult when it comes to maximizing an *index* of several goods. In the literature in political philosophy and economics, this is often called the *indexing problem*⁶: *Which combination of social primary goods can maximize the real freedom of the least well-off?*

Suppose that real freedom is affected by two goods: income and power. One can ask whether more income can compensate for less power. This is the situation that horrifies Sir Wolf in the tale. The Dog is fat because of all the meals he gets but he has to endure domination by his masters. Sir Wolf tells the Dog that he prefers less food in order to enjoy less domination and to be able to run where it pleases him. So, as the Dog asks, “what of that”?

The indexing problem has not been unnoticed. Rawls is well aware of it. He wonders “which combination of social primary goods... would be rational for [the least well-off] to prefer”⁷. Indeed, if real freedom is affected by several goods, it might be possible to substitute some of one good by some of another in the bundle of the least well-off. But all substitutions might not preserve the value of the bundle. As Arneson asks: “the question arises, how to aggregate a person’s holdings of the various primary goods into a measure of her overall share of them”⁸? But Arneson thinks that there is no objective solution, but only subjective ones.

In Chapter 3, I will argue that, within the restricted settings of Rawls’ liberal egalitarianism, it is possible to find an objective solution to the indexing problem. Answering the indexing problem requires solving two problems. The *first problem* consists in evaluating, *in theory*, what are the conditions under which it is acceptable to substitute social primary goods. This requires knowing the *substitution rates* of primary goods. Luckily, it is possible to demonstrate that Rawls’ social primary goods have diminishing marginal returns. Therefore, they also have diminishing marginal substitution rates: other things equal, the less of a good is in a bundle, the highest its substitution rate gets. The *second problem* consists in evaluating which acceptable substitutions are feasible *in practice*. Because of scarcity constraints, some substitutions might be acceptable in theory but not feasible in practice. I underline that the higher the substitution rate gets, the more difficult it is to afford the substitution cost.

The solution I propose is valid in the restricted settings of liberal egalitarianism. It is not a general solution that would be valid for all metrics or all goods. Within these settings, I argue that very few acceptable substitutions of primary goods are likely to be feasible in practice, at least as far as the bundle of the least well-off is concerned. I conclude that maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each social primary good.

In Section 1, I will restate the reasons why Rawls develops an objective account of freedom. In Section 2, I will define the terms of the debate and propose an abstract model to analyze the substitution of goods. In Section 3, I will analyze the *first problem* and evaluate the substitution rates of Rawls’ primary goods. In Section 4, I will turn to the *second problem* and evaluate which acceptable substitutions are feasible *in practice*, given scarcity constraints. Finally, in section 5, I will propose a solution to the indexing problem.

⁶ Rawls (1971: 93) Arneson (1990: 445) and Fleurbaey (2008a: 9) explicitly use the terms “index problem” or “indexing problem” when referring to the question of listing and aggregating social primary goods.

⁷ Rawls 1971: 93-94

⁸ Arneson 1990: 445-446. See also: Rawls 1971: 93-94; Fleurbaey 2007: 633-636

1 – Restatement: Rawls’ objective account of freedom⁹

Metrics and proxies

Liberal egalitarianism, like all theories of justice, must define a *scope*, a *metric* and a *pattern*. Issues related to the scope are left aside here. Theories of distributive justice need to measure and evaluate the distributive outcomes of policies. To do so, they need to propose a *metric* which will serve to compare the situations of individuals and tell who is better off and who is worse-off. Therefore, it is necessary to evaluate individuals’ respective situation on a single common metric. Otherwise, interpersonal comparisons are impossible¹⁰. Rawls, Van Parijs Sen or Arneson have proposed to compare individuals’ *freedom* but have different ways to measure it. Such metrics help to evaluate which individuals are more or less free¹¹. Some refuse to adopt one single metric and propose *pluralist* conceptions valuing many independent metrics simultaneously¹². But this only allows claiming that a given situation is beneficial “in one way”. In order to make judgments “all-things-considered”, a common metric is required.

Even if we adopt a single common metric such as *freedom*, this is often too abstract to be used effectively by public authorities. They need workable *proxies* to make approximate evaluations of someone’s freedom and evaluate the impact of concrete policies. While metrics are abstract concepts, proxies often take the form of concrete material “*goods*”, “*benefits*” or “*commodities*” that are valuable to raise someone’s situation along one metric. For example, metrics such as freedom or well-being use income as one proxy. A higher income makes someone better off because money is a very polyvalent good. It might not cover all the ways in which someone can increase his situation, but it is a useful proxy for policy purposes¹³.

The separation of goods

Rawls’ theory of justice adopts a *single* but *complex metric* involving a *list of proxies*. A *single* metric is *complex*, in a meaningful way, only if the goods affecting it are *separated*. Here is how to define the separation of goods:

Separation: Given a metric M affected by two goods “a” and “b”, goods are separated if the sets of opportunities they open do not overlap perfectly, notably if having one good does not necessarily allow you to obtain the other.

If two goods are *not separated* and one good opens all the opportunities opened by the other or always enables to obtain the other, then one good is enough and there is no point in making the list any longer. For example, if income always allows buying food and shelter, there is no need for food and shelter to be on the list. The main reason explaining why two proxies are separated is that they have different *functions*, each one useful to make someone better off: for instance, income has a useful function but power over decisions affecting future income is also important. Therefore, income is not the only valuable good and cannot always provide us with other valuable goods such as power over decisions affecting us.

For many metrics and lists of goods, there are institutional arrangements in which having access to one good can help to get access to other goods. For example, income can be useful

⁹ I begin by making a restatement of Chapter 2. The goal is to recall the contours of the indexing problem.

¹⁰ Of course, interpersonal comparisons are often difficult (Arnsperger & Van Parijs 2003: 21-22).

¹¹ Rawls 2001: 39-50; Van Parijs 1995: 17-29, 48-53, Sen 1992: 12; Arneson 1989: 85

¹² For example, O’Neil (2014: 18) proposes that there are various understanding of freedom (formal freedom, real freedom, freedom as non-domination) and that we need to make tradeoffs when we evaluate public policies.

¹³ In societies like ours, income can be exchanged for almost any good or service (Van Parijs 1995: 41-42).

to get many other goods including political influence or bargaining power. I will specify later how to define power¹⁴. But this is not true under all institutional arrangements. For instance, democratic institutions limit for good reasons how income can be converted into political influence. Here is another example. An unconditional basic income does provide workers with more bargaining power, but income cannot always be converted into bargaining power¹⁵. Some firms pay their workers above their marginal productivity precisely in order to *increase* their power over workers: indeed, because this increases the cost of being fired, workers tend to accept harsher working conditions without complaining¹⁶. Besides, income is not the only source of power. Decision-making structures inside firms are another source of power¹⁷. Therefore, income can still be considered as separated from political influence or bargaining power because having one does not *necessarily* lead to having the others.

Real freedom and Rawls' objective metric of justice

A basic claim of liberal egalitarianism is that public institutions should secure the freedom of individuals to realize their conception of the good¹⁸. *Freedom* can be defined as the capacity of an agent (x), to realize a choice (y), without constraint (z)¹⁹. *Real freedom* includes all three components. It includes the *capacity* of the agent (x) and the set of opportunities from which he *chooses* (y). Real freedom also includes legal and non-legal *constraints* (such as natural constraints) (z)²⁰. *Formal freedom* is nothing but a subset of this general conception of freedom that only refers to the degree of *legal* or *social* constraints (z). If someone has the capacity (x) to realize a specific choice (y) without constraints (z), this constitutes one *opportunity*. An *opportunity set* is the set of choices (y) an agent (x) can realize without constraint (z). The larger people's opportunity sets become, the freer they are.

Real freedom should thus be measured in terms opportunity sets. The problem is that each bundle of external goods allows individuals to realize very different sets of opportunities. Therefore, how to evaluate the value of a given opportunity set? Rawls argues that "for questions of social justice we should try to find some objective grounds for these [interpersonal] comparisons, ones that men can recognize and agree to"²¹. He proposes an objective metric evaluating the bundle of "*social primary goods* attached to *social positions*".

The argument for an objective account of freedom

In a liberal framework, an *objective* account of freedom poses problems. If we do not want to impose a specific conception of the good to individuals by fixing the value of all external goods, and if we cannot take into account individuals' actual preferences, what *common ground* is left in order to reach a public agreement about the metric of justice?

A fundamental idea in Rawls' conception of justice is that society is a system of cooperation for mutual advantage. Because everyone needs cooperation in order to produce resources, everyone understands the need to build an agreement about the rules of social cooperation.

¹⁴ Large income and wealth inequalities create power inequalities and domination (Rawls 2001: 137-138; O'Neill in O'Neill & Williamson 2012a: 81-84; Stiglitz 2012: 181-211; Malleson 2014: 137-140). By contrast, a basic income gives individuals more bargaining power (Van Parijs 1995: 20-29, 32-38; Lovett 2010: 196-200).

¹⁵ Van Parijs 1995: 20-29, 32-38

¹⁶ Shapiro & Stiglitz 1984: 433

¹⁷ Young 2006: 94; Hsieh 2009: 408. Malleson (2014: 137-152) explains how the wealthy few often threatened in the past some states to force them to turn back on democratic decision by making powerful "capital strikes".

¹⁸ Rawls 2001: 42; Van Parijs 1991: 225

¹⁹ This definition is compatible with Rawls' (1993: 324-326) and is explicitly stated by MacCallum (1967: 314).

²⁰ Rawls 1993: 324-326; Van Parijs 1991: 225; 1995: 21-24

²¹ Rawls 1971: 90-91. On the need to accommodate reasonable pluralism, see: Clayton & Williams 1999: 458-459

Indeed, as Rawls underlines it: “without cooperation, there would be nothing produced and so nothing to distribute”²². Therefore, we *need* to agree on acceptable rules in order to secure the stability of social cooperation over time. The need for a political agreement to stabilize cooperation is *the common ground* for an objective metric of real freedom. This has *two* related consequences for the metric of justice.

i. *The first consequence* is that, because we need a political agreement to stabilize cooperation, we need to avoid imposing a conception of the good and we thus need to abstract from individuals’ actual preferences. Only preferences *behind the veil of ignorance* should count²³. There are at least *two* reasons why partners in the original position should ignore *actual preferences*. First, reasonable pluralism prevents *agreements*. Second, taking individuals’ *actual preferences* into account is not *workable*. There are *epistemic* problems because preferences are often adapted and uninformed, and it would require gathering too much information about actual preferences which would require very *intrusive* and very *costly* policies²⁴. Under these conditions, partners will rationally agree that their only option is to distribute the external goods with *the most chances* of maximizing people’s real freedom.

The only *liberal* way to do so is to focus on real freedom’s most *polyvalent* proxies. We need to focus on *the most polyvalent goods* and then let people use them to get the bundle of external goods fitting their preferences. For instance, with a polyvalent good such as income, people have access to the external goods that can be exchanged on the market. The value of these external goods would thus be fixed by their competitive value on the market. However, besides income, there may be other polyvalent goods, such as power, that provide a particular set of opportunities²⁵. This is why Rawls proposes a list of polyvalent *social primary goods*.

ii. *The second consequence* is that, because we need a political agreement to stabilize social cooperation, the distribution should not depend on individuals’ preferences but on what is necessary to maintain an efficient and productive system of social cooperation over time. Therefore, not only do we need to distribute social primary goods but we also need to establish proper *incentives* for production. This is why we need to *link* the distribution of the *burdens* and the distribution of the *benefits* of cooperation.

This is why the metric of justice should be “the bundle of social primary goods attached to *social positions*”, not to *the least well-off* himself. *Social positions* are defined by the combination of some *burdens* of cooperation in terms of work for instance (janitor, artist, worker, teacher, doctor, lawyer, CEO and so on...) and some *benefits* in terms of social primary goods²⁶. Individuals receive a share of the socio-economic benefits by holding a social position, thereby assuming some *burdens* in the cooperative scheme. Once the distribution *between social positions* is realized, we let individuals have access to them and *choose* the social position that best fits their plan in life²⁷. As Van Parijs underlines:

Properly understood, the difference principle is an opportunity-egalitarian principle, and its being phrased in terms of expectations associated with social positions, rather than directly in terms of primary goods, is of crucial importance in this respect²⁸.

²² Rawls 2001: 61. It might be more accurate to say that “...there would be *almost* nothing produced...”

²³ Rawls (1993: 187-190; 2001: 60) underlines the objective character of social primary goods.

²⁴ Anderson (1999: 289, 310) raises the same argument in the case of assessing personal responsibility.

²⁵ Van Parijs (1995: 51, 80-82) adopts this forth way to measure opportunities.

²⁶ Rawls 2001: 50-52, 57-61; Freeman 2007 : 59, 88; Van Parijs 1991: 225; 1995: 21-24

²⁷ Rawls 1971: 94-95; 1993: 283; 2001: 50-51, 63, 175; Pogge 2002: 208-210; Freeman 2007: 106-109, 125; Van Parijs, in Freeman 2003: 214. It doesn’t necessarily mean that rewards should be proportional to contributions.

²⁸ Van Parijs, in Freeman 2003: 214

To sum up, *because* we need a political agreement to stabilize social cooperation, we need to adopt a conception of justice that is based, not on the fact that individual preferences need to be satisfied, but on the fact that individuals need *incentives* to cooperate and produce resources. While *allocative justice* considers resources as “manna from heaven”, abstracting from the conditions of their production, and proposes to allocate them only according to individuals’ preferences, a *distributive conception of justice* is concerned about the need to cooperate to produce resources. Therefore, public institutions need to distribute burdens *and* benefits, and to *attach* burdens to benefits in order to create appropriate incentives pushing individuals to take on some burdens and maintain an efficient and productive system of social cooperation over time. This is why Rawls think that the metric of justice should be “the bundle of *social primary goods* attached to *social positions*”²⁹.

How does an objective metric deal with the difference between persons?

Sen argues that an objective account of freedom is misleading because it neglects two elements making persons different: people’s *preferences* and *needs* (depending on other types of goods such as natural goods or personal abilities)³⁰. I already explained why a political conception of justice must abstract from individuals’ actual preferences in order to allow for a political agreement about the value of the bundle of the least well-off. But *even if* we suppose that two individuals have identical preferences, their freedom or opportunities will depend on their different needs and abilities. Rawls and Pogge underline three ways in which a society based on a distributive conception of justice makes disabled people better-off.

First, for the people still able to participate in cooperation but having talents with lower market value, a just society would nevertheless improve their situation. Sure, if their talents have a lower market value, they will end up in the lowest social positions. But institutions should maximize the lowest positions no matter their marginal productivity³¹. Second, many differences in natural goods between people today (such as illness or handicap) are produced because our institutional arrangements are unjust. For Pogge, a just society focusing on resources attached to positions would tackle the origin of many disabilities³². Third, in order to maximize the prospects of everyone over their complete life, it is rational to implement public health and social insurance schemes to prevent or compensate for the risks faced by everyone to fall out of the cooperative scheme for a while. Such insurance schemes would benefit all potentially cooperating members of society because everyone faces the risk of being a victim of bad luck. The victims would, therefore, enjoy more resources during the time they fall out of cooperative activities³³. These three answers show how a distributive conception of justice can remain non-perfectionist and ignore individual preferences or specific needs while caring about disabled people. I will not discuss these issues further here.

The indexing problem within liberal egalitarianism

This means that for liberal egalitarians, public institutions should maximize the index of social primary goods attached to the social position of the least well-off. But if one can easily understand how to maximize *one* good like income, things get more difficult when it comes to maximizing an *index* of several goods. In the literature, this is called the *indexing problem*³⁴.

²⁹ Rawls 2001: 50-54; 1993: 283

³⁰ Sen 1992: 85; Pogge 2002: 176-178

³¹ Rawls 2001: 170-176; Pogge 2002: 196-204; Van Parijs, *in* Freeman 2003: 215

³² Pogge 2002: 186-188, 196-204; Daniels 2008: 61, 79-88

³³ Rawls 2001: 173; Becker 2005: 16. I will analyze the ethical issues raised by insurance systems in Chapter 6.

³⁴ Rawls (1971: 93) Arneson (1990: 445) and Fleurbaey (2008a: 9) explicitly use the terms “index problem” or “indexing problem” when referring to the question of listing and aggregation of social primary goods.

Indexing problem: How to evaluate which combination of social primary goods can maximize the real freedom of the least well-off? *Either* you adopt an objective solution, but it needs to be acceptable by all despite reasonable pluralism, *or* you adopt a subjective solution but it makes collective evaluations impossible³⁵.

The indexing problem has not been unnoticed. Rawls is well aware of it. He wonders “which combination of social primary goods... would be rational for [the least well-off] to prefer”³⁶. Indeed, if real freedom is affected by several goods, it might be possible to substitute some of one good by some of another in the bundle of the least well-off. But all substitutions might not preserve the value of the bundle. As Arneson asks: “the question arises, how to aggregate a person’s holdings of the various primary goods into a measure of her overall share of them”³⁷? Arneson thinks that there is no objective solution but only subjective ones.

I will argue instead for a *liberal* and yet *objective* solution to the indexing problem. Like Rawls, I think that the problem is greatly simplified for three reasons. First, as I said, Rawls leaves aside basic formal freedoms to focus on goods concerned by the difference principle³⁸:

One problem clearly is the construction of the index of primary social goods. Assuming that the two principles of justice are serially ordered, this problem is greatly simplified. The basic liberties are always equal, and there is fair equality opportunity; one does not need to balance these liberties and rights against other values. The primary social goods that vary in their distribution are the rights and prerogatives of authority, and income and wealth³⁹.

Second, because justice does not require maximizing the position of more well-off people, Rawls underlines that the indexing problem mainly concerns the bundle of the least well-off. Therefore, the *indexing problem* consists in asking, from the standpoint of the least well-off: “which combination of primary social goods... would be rational for him to prefer?”⁴⁰:

But the difficulties are not so great as they might seem at first because of the nature of the difference principle. The only index problem that concerns us is that for the least advantaged group. The primary goods enjoyed by other representative individuals are adjusted to raise this index, subject of course to the usual constraints. It is unnecessary to define weights for the more favored positions in any detail [...] If we know how the distribution of goods to the more favored affects the expectations of the most disfavored, this is sufficient. *The index problem largely reduces, then, to that of weighting primary goods for the least advantaged*⁴¹.

Third, as I underlined earlier, in order to remain liberal while proposing an objective metric for justice, Rawls proposes to focus on real freedom’s most *polyvalent* proxies: *social primary goods*. With a polyvalent good such as income, people have access to the external goods through market exchanges. The value of most external goods would thus be fixed by their competitive value on the market. Once the distribution *between social positions* is realized, we let individuals have access to them and *choose* the position that best fits their plan in life⁴². Therefore, the indexing problem is reduced to the problem of comparing only the respective contribution to real freedom of very polyvalent goods such as income, power or self-respect.

³⁵ Fleurbaey 2008a: 9. Arneson (1999: 445-446) says that only a subjective solution is possible.

³⁶ Rawls 1971: 93-94

³⁷ Arneson 1990: 445-446. See also: Rawls 1971: 93-94; Fleurbaey 2007: 633-636

³⁸ Rawls (1971: 93) thinks the indexing problem arises only for the goods concerned by the difference principle.

³⁹ Rawls 1971: 93-94

⁴⁰ Rawls 1971: 93-94. Rawls admits that “in doing this we admittedly rely upon intuitive estimates”. Fleurbaey (2007: 633-636) underlines that Rawls answer is unsatisfying.

⁴¹ Rawls 1971: 93-94 (*my italics*)

⁴² Rawls 1971: 94-95; 1993: 283; 2001: 50-51, 63, 175; Pogge 2002: 208-210; Freeman 2007: 106-109, 125; Van Parijs, in Freeman 2003: 214. It doesn’t necessarily mean that rewards should be proportional to contributions.

This is still an important issue because if all social primary goods were found to be totally substitutable, distributing *all* goods would not be required. Public institutions could simply focus on one good and give up on policies aiming at distributing all the other primary goods. For example, Rawls and Tomasi both (broadly) consider that freedom should be the metric of justice. But Tomasi seems to assume that all goods can be *substituted* by income. Therefore, he suggests that the freedom of the least well-off can be secured simply by giving him more income. He explicitly does not care about any other good:

Free market fairness sees increases in income as holding out the promise of increasing the worth of the *freedoms* enjoyed by all citizens. [...] If offered the chance to have their wages lowered and their opportunities to participate in workplace committee meetings increased, market democracy is skeptical that many ordinary citizens would (or should) accept. [...] Free market fairness interprets the difference principle as requiring that we increase the *income* of the least well-off⁴³.

Rawlsians like Freeman have the opposite intuition and think that goods are *not substitutes*:

...in a “property-owning democracy”, workers’ share of *economic powers* and the *bases of self-respect* are greater than they are in a capitalist welfare state, since they have partial control over their working conditions and the management of production. In this regard, the *index* of primary goods of the least advantaged can exceed that of the least advantaged in the capitalist welfare state, *even though the latter have greater income and wealth*⁴⁴.

Freeman compares two systems here. In Welfare State Capitalism, the bundle of the least well-off has a low value: the level of income may be high but the ones of other goods are very low. In a Property Owning Democracy, by contrast, the value of the bundle of the least well-off is higher because, even if total income is lower, the share of other goods such as power is higher, for instance because workplaces are democratic⁴⁵. The underlying intuition is Arnold’s one: “surely the best way to maximize the value of a bundle is to maximize the value of all of its constituents”⁴⁶. But this is neither always true nor always possible: tradeoffs can raise complicated theoretical issues⁴⁷. This clarifies what is at stake in the indexing problem: *Which combination of social primary goods can maximize the real freedom of the least well-off?*

2 – How to model the substitution of social primary goods?

Whenever a metric M is constituted of several separated goods such as “a” and “b”, the question of substitutability arises. It becomes eventually possible to *substitute* some “a” by some “b”, in the bundle of the least well-off, without affecting the value of the bundle.

Under which conditions can we substitute one good by another?

It is very important to distinguish *separation* and *substitution*. Even if two goods are totally *separated*, which means that the sets of opportunities they open do not overlap and that one good does not allow obtaining the other, they could still be *substitutes*. For instance, let’s take a metric like freedom and let’s say a car allows traveling long distances on roads while a bicycle allows going in natural environments. The two goods are *separated* since the two sets of opportunities do not overlap entirely and one good does not always help to obtain the other. They don’t provide the same opportunities (which makes them *separated*), but they both provide valuable and interchangeable opportunities (which makes them *substitutable*). If what

⁴³ Tomasi 2012: 190-191 (*my italics*)

⁴⁴ Freeman 2007: 113 (*my italics*). Arnold (2013: 394) and O’Neill (2008: 51) share this intuition for instance.

⁴⁵ Property-Owning Democracy is a system in which income, financial and human capital is fairly distributed. For more on basic income, see: Van Parijs 1995: 32-38. For workplace democracy, see: Malleon 2014: 27-53.

⁴⁶ Arnold 2013: 394

⁴⁷ O’Neill (2008: 52) underlines this possibility.

we care about is freedom and if the “amount” of freedom provided by a car is the same than the “amount” of freedom provided by a bicycle, then the two goods are *substitutes*:

Substitutes: Given a metric M affected by “a” and “b”, goods are substitutes if more “a” can compensate for less “b” while preserving the value of the bundle.

If goods are not substitutable at all, they are *complements*:

Complements: Given a metric M affected by “a” and “b”, the level of M always depends on the good in the smallest quantity in the bundle⁴⁸.

The reasons why, and conditions in which, goods can be substituted or not depend on each metric and each couple of goods. But one reason explaining why goods can be substituted or not has to do with their *functions*. For instance, if M is affected by two goods with functions that are dependent on one another, meaning that having one good is necessary to make a proper use of the other, these goods are *complements*. In this case, a certain amount of each good is necessary to reach any amount of M and having some “a” but no “b” at all is useless. The typical example of *complements* is basic needs. For instance, let’s say that freedom is affected by *food* and *sleep*. They are *separated* goods because food does not necessarily help to get sleep or reversely. But food and sleep have complementary functions because freedom seems to require at the same time some food *and* some sleep at least up to a certain level, and having no food at all *or* no sleep at all is sufficient to have no freedom. Goods with complementary functions cannot be substituted at least up to a certain level.

But if M is affected by two goods with functions that are independent, meaning that the function of one good has no effect on the function of the other, these goods are *substitutes*. In this case, the value of M is simply the sum of the opportunities opened by each good. For instance, let’s take again a metric of freedom and let’s recall that the function of a car is to travel long distances on roads while the function a bicycle is to go in natural environments. The two goods are *separated* since the two sets of opportunities do not overlap entirely and one good does not always help to obtain the other. But cars and bicycles also have independent functions because the function of your car is independent of the function of your bicycle. Goods with independent functions can be substituted.

However, some goods still open more options than others. Therefore, even if two goods are substitutes, they may still have different substitution rates. This means that the amount of “a” necessary to compensate for the amount of “b”, while preserving the value of the bundle, can be very different from one good to another. This is why evaluating the *substitution rates* of goods is essential to compare the value of different combinations of goods.

The substitution rate of goods

If goods are *perfect complements*, each good is necessary but not sufficient to provide a unit of M. The level of M always depends on the good in the smallest quantity in the bundle:

$$M = \min \{a ; b\}$$

But, for many metrics M (i.e. freedom) and bundles of goods “a”, “b”, having some of “a” (i.e. income) still increases M even without any of “b” (say power). Even slaves have more freedom when they receive some material advantages, even in the virtual absence of power⁴⁹. In these cases, it is possible to substitute some amount of “a” by some amount of “b” while preserving the value of the bundle. If so, it is important to know the substitution rate.

⁴⁸ Note that the terms “complement” and “substitute” are not use in the usual economic sense here.

⁴⁹ Toner (2015) explains the kind of rewards or incentives given to slaves in the Roman Empire.

If goods are *perfect substitutes*, less “a” can be compensated by more “b” while preserving the value of the bundle and the *substitution rate* is $n = 1$. M is the same if someone either has only 2 units of “a” or 1 unit of “a” and 1 unit of “b”. Therefore, individuals’ M would always be the sum of “a” and “b”, no matter the distribution inside the *index*:

$$M_1 \{a ; b\} = M_2 \{a + \mu a ; b - \mu b\} \quad (\mu a \text{ and } \mu b \text{ being units of “a” and “b”})$$

But, for many real metrics M (like freedom) and bundles of goods “a”, “b”, substitution rates might vary. This is why for several metrics using a list of several goods, the goods involved can be considered *partial substitutes*.

If goods are partial substitutes, their *substitution rate* is $n > 1$. There are many underlying reasons explaining why some goods are partial substitutes and have different substitution rates. It is probably impossible to provide a complete account of these reasons for all goods. But, if we can demonstrate that for some reason, goods are partial substitutes, then one need to raise the quantity of “a” of n units in order to compensate for the loss of one unit of “b”:

$$M_1 \{a ; b\} = M_2 \{a + n\mu a ; b - \mu b\}$$

Following this model, for any metric M constituted of a list of goods “a”, “b”... answering the indexing problem and finding which combination of goods the least well-off should prefer requires evaluating which substitutions are acceptable *in theory*. In our case, this requires evaluating the *substitution rates* of Rawls’ social primary goods. I will do this in Sections 3. This is already a clue helping to understand Sir Wolf’s reaction in the tale. For him to accept the chains and the domination of masters, the substitution rate is quite high: “It ought to be a precious *price*, which could to servile chains entice”. But answering the indexing problem also requires solving a second problem: evaluating which acceptable substitutions are feasible *in practice*. Because of scarcity constraints, some substitutions might be acceptable in theory but not feasible in practice. I leave this issue for Sections 4 and 5.

3 – Rawls’ primary goods: What are their substitution rates?

Which goods qualify as social primary goods?

Let me recall that in this chapter, I am not considering issues regarding basic formal freedoms (or “basic liberties”). As Rawls says: “The basic liberties are always equal, and there is fair equality opportunity; one does not need to balance these liberties and rights against other values. The primary social goods that vary in their distribution are the rights and prerogatives of authority, and income and wealth”⁵⁰. I will focus on the latter.

According to Rawls, in order to secure people’s freedom, public institutions need to distribute the polyvalent goods that any rational citizen would like in order to be really free to realize their conception of the good life. Rawls tries to narrow down the list by focusing on *social primary goods*. Other things equal, more of each social primary good provides more freedom:

These are various social conditions and all-purpose means that are generally necessary to enable citizens adequately to develop and fully exercise their two moral powers, and to pursue their determinate conception of the good⁵¹.

⁵⁰ Rawls 1971: 93-94. I emphasize this in order to underline that of course, questions of substitutability between basic liberties and other social primary goods are arguably an entirely different issue.

⁵¹ Rawls 2001: 57. See also: Rawls 1971: 90-95, 1993: 187-190

Rawls proposes two criteria to select social primary goods. First, in a liberal, non-perfectionist perspective, institutions should distribute the most *polyvalent* goods (*primary* goods). These goods should enable individuals to realize, without arbitrary restrictions, the largest and most diverse set of conceptions of the good life⁵². Second, goods must be *workable* (*social* goods). As Arnold puts it: “Primary goods, Rawls holds, must respect the limits of the practical: they must be amenable to objective measurement through a process that’s simple enough to be ‘workable’ for everyday politics”⁵³. Public policies thus have to focus on the *social bases* of goods that are easy to identify, to measure and to use by public authorities. For instance, Public institutions cannot distribute directly *internal* resources. If internal resources are important, institutions should distribute their *external* social bases⁵⁴. Rawls’ list includes social primary goods such as income and wealth, powers and prerogatives of offices and positions of authority and responsibility, and the social bases of self-respect⁵⁵. Of course, these goods are proxies. Moreover, there are various interpretations of these goods. Here is a brief precision of the list of social primary goods that is sufficient for my purpose.

First, Rawls considers *income* and *wealth*. In fact, they are the most polyvalent social bases of purchasing power. In societies like ours, money can be exchanged for a wide range of other goods or services⁵⁶. This is the reason why GDP and individuals’ or households’ purchasing power are often used as indicators to evaluate development and poverty⁵⁷. Distributing purchasing power is also the solution to the problem of the allocation of most other external goods. Distributing purchasing power leaves the allocation of most other goods in the hands of individuals which can purchase goods at prices set by competitive markets. Scarce resources will have higher prices and more abundant resources will have lower prices⁵⁸.

Second, institutions also create positions of authority and responsibility. These positions are attached to *powers* and *prerogatives*. However, it is not always clear what Rawls understands by that. One way to understand the *powers and prerogatives* of offices and positions of authority and responsibility is the following: such positions are attached to *power over* important decisions⁵⁹. The function of power is to secure our future situation against the risk of arbitrary interference by others. Lovett insists on the importance of “*power over*” others or over important decisions affecting individuals’ opportunities. Someone can exercise power over others in two ways: he can influence others’ preferences and he can change the cost of an option for others⁶⁰. Therefore, Lovett defines *power* as follow:

One person or group has *power over* another if the former has the ability to change what the latter would otherwise prefer to do – i.e., change the strategy the latter would otherwise select from their opportunity set⁶¹.

Lovett thinks it is possible to evaluate power inequalities even if it is a more abstract measure. He proposes to measure the power of an individual or a group over another by measuring the degree to which the first can modify the opportunities or strategies that others opt for. But of

⁵² Rawls 1971: 90-95; 1993: 187-190; 2001: 57-61; Pogge 2002: 208-212

⁵³ Arnold 2012: 97. See also: Rawls 1971: 90-95; 1993: 187-190; 2001: 57-61, 175; Pogge 2002: 217

⁵⁴ Rawls 2001: 57-61; Pogge 2002: 208-212; Arnold 2012: 97 (ex. this is the case for self-respect of health)

⁵⁵ Rawls 2001: 58-59

⁵⁶ Rawls 2001: 58-59; Van Parijs 1995: 41-45, 48-51; Piketty 2013: 749

⁵⁷ For instance, the Human Development Index (HDI) includes *per capital* GDP adjusted to purchasing power, among other factors (Sen 1992: 28-30, 102-116; Pogge 2002: 213-215).

⁵⁸ Van Parijs (1995: 51-52) underlines that this is a solution for the allocation of external goods.

⁵⁹ Rawls 1993: 308; 2001: 58; Fleurbaey 2006: 87; Lovett 2010: 69, 71-74

⁶⁰ “Freedom” and “power to” could be assimilated but Lovett (2010: 69, 71-74) focuses on “power over”.

⁶¹ Lovett 2010: 75. The advantage of Lovett over other republicans is that he uses a metric of freedom and opportunities to define domination, which fits within a liberal egalitarian framework.

course, what matters is not the absolute level of power but the relative level. What matters for individuals' freedom or opportunities is the *inequality of power*. Lovett thinks that when there is an inequality of power, there is *domination*, which threatens individuals' opportunities⁶². This primary good can thus be defined as the social bases of protection from domination.

Third, one could add another understanding of the *powers and prerogatives* of offices and positions of authority and responsibility. Indeed, social positions are not only working opportunities but also learning opportunities in which one can develop (or lose) some important capacities required to make an intelligent use of his resources. Rawls says that positions of authority and responsibility enable the development of the various "self-governing and social capacities of the self"⁶³. It consists in the two moral powers: the capacity to formulate, revise and pursue his own conception of the good life and the capacity to develop a sense of justice⁶⁴. Arnold proposes to understand powers and prerogatives as "the social bases of the internal resources of self-governing and social capacities":

offices and positions involving complex work cultivate the internal resources of intelligence and virtuosity. [...] By 'intelligence' I mean the ability to reason, to plan, to solve problems, to think abstractly, to comprehend ideas, and to learn. By 'virtuosity' I mean skillfulness or cultivated aptitude. Generally speaking, more intelligence and virtuosity make for more effective agency. Other things equal, a sharp and skillful person enjoys greater prospects of success across a wider range of endeavors than someone who is dull and incompetent⁶⁵.

Finally, Rawls thinks the most important primary good is what he calls "the social bases of self-respect". Institutional structures influence the way individuals consider themselves and one another. Some institutions make people see each other as adversaries or competitors whereas others help people to have a positive conception of their person. Having a sense of our own value is important to have the confidence and motivation to pursue any plan in life. Without a minimum of self-respect, nothing seems to have any value and one would abandon all his enterprises⁶⁶. For Rawls, the social bases of self-respect are:

those aspects of basic institutions normally essential if citizens are to have a lively sense of their worth as a person and to be able to advance their ends with self-confidence⁶⁷.

To sum up, each social primary good in this list has a different *function*. In a nutshell, purchasing power secures our ability to exchange goods. Protection from domination, through a fair distribution of power, secures control over important decisions affecting our *future* bundle of goods. Self-governing capacities help us to use our purchasing power and our power over important decisions in an intelligent and useful way. Finally, self-respect provides us with a sense of our own value and the motivation and confidence necessary to achieve our conception of the good life.

I have already stressed that income and power can be considered as *separated* goods. Some level of income or capital can help to get more political influence or bargaining power, but this is not true under all institutional arrangements. Then, purchasing power and protection from domination can be considered to be *separated* from self-governing capacities. Some level purchasing power and power over others can give access to the means to develop such capacities. But again, this is not true under all institutional arrangements, for instance, if

⁶² Lovett 2010: 55, 78-82

⁶³ Rawls 1993: 308; 2001: 57-59, 175; Arnold 2012: 98

⁶⁴ Rawls 2001: 57-60, 175; Freeman 2007: 297

⁶⁵ Arnold 2012: 101, 114

⁶⁶ Rawls 1971: 440-446; 2001: 59; Freeman 2007: 113; Hsieh 2009: 401

⁶⁷ Rawls 2001: 59

education is very costly or of very bad quality. Arnold or Young also insist that other social bases are important such as a more flat division of labor inside organizations⁶⁸. However, one could wonder if self-respect is really *separated* from other social primary goods. Equal basic liberties and a just distribution of other primary goods may be enough to secure self-respect. In any case, let's assume this understanding of Rawls metric and list of goods. My point here is not to argue for any specific list, but only to analyze a possible solution to the indexing problem. The argument holds for any metric and list of goods sharing similar characteristics.

Are social primary goods substitutes or complements?

Because Rawls focuses on very polyvalent goods such as income, his metric solves most problems raised by goods with complementary functions. Indeed, income is sufficiently polyvalent to allow people to buy food, free time to sleep and most other goods that may have complementary functions. However, the question of substitutability remains for the various polyvalent social primary goods listed above. I will argue that Rawls' social primary goods are complements up to a minimal level but are substitutes after that.

First, a minimum of each social primary good is required to live a free life because the functions of these goods are interdependent at least up to a certain level. Income and wealth are useful for purchasing power but if you have no power at all against arbitrary interference someone else will always decide how you can use your money which makes it not even "your" money anymore. Moreover, even if you have some money and some power, you can still make very bad, irrational and ill-informed decisions about how to spend it which reduces your freedom to realize your conception of the good. This is why some level of self-governing capacities is required to make any meaningful use of your resources. Finally, if you have all the previous social primary goods but have no sense of your own value or totally lack self-confidence, you will never be able to act and pursue effectively your conception of the good.

A minimal level of each social primary good is thus necessary for freedom. It seems necessary if only to secure the fair value of political liberties that required by the first principle. For instance, formal freedom of expression has no value if someone has no income and is starving, or if he has no power and is entirely dominated, or again if he has no intellectual capacity to exercise free speech⁶⁹. Therefore, these goods are complements and one good cannot compensate for the lack of the other *at this level*.

Second, above this minimal level required for each social primary good, it seems however that they become substitutable to some extent. Having more income increases freedom even if only minimal protection from domination and self-governing capacities are secured. As I said, even slaves have more freedom if they receive some material advantages in compensation for their work⁷⁰. If so, we need to evaluate the substitution rates of social primary goods.

This could raise very complicated measurement issues which would reduce the choice between public policies to impossible case-to-case analysis of their effects on every person affected⁷¹. Luckily, it is possible to demonstrate that each of Rawls' social primary goods has a diminishing marginal return: the first units of each good provide more opportunities than the last units. Therefore, these goods also have diminishing marginal substitution rates. The first units of any good are more costly to substitute than the last ones. Therefore, other things

⁶⁸ Anderson 1999: 317-319; Arnold 2012: 98-99, 101, 114; Young 2006: 92-93

⁶⁹ Anderson 1999: 317-319

⁷⁰ Toner (2015) explains the kind of rewards or incentives given to slaves in the Roman Empire.

⁷¹ This is also what Arneson (1990: 446) suggests.

equal, the less of a good there is in a bundle, the highest its substitution rate gets. I will now provide arguments suggesting why social primary goods may have diminishing marginal returns. This is so because of the *clustering effect* and because some are *positional goods*.

The clustering effect: the cases of income and self-governing capacities

Having a lot of income can be very useful if there are large inequalities. If so, more income would give the rich more political influence and power than the poor for instance. But this situation is ruled out by the first principle. Such deep inequalities do not exist in a just society. Moreover, the real indexing problem is the one concerning the situation of the least well-off. Within this range, income does have a diminishing marginal return.

One reason why the first units of income might have more value than the last ones is that they are subjected to the *clustering effect*. As Wolff and de-Shalit point out, disadvantages tend to cluster because they are interconnected and often serve to reinforce one another. For example, low income tends to affect negatively many other aspects of poor populations such as analphabetism, physical and mental health, child mortality, obesity, teenage pregnancies, the use of drugs, life expectancy, violence and homicides, confidence between citizens and the quality of community life, rates of incarceration, social mobility and so on⁷². Poverty is thus associated with many negative outcomes that are interconnected. Therefore, when poor people get out of poverty, they tend to gain all at once a lot of new opportunities⁷³. All of a sudden, they can purchase many goods with complementary functions and therefore increase their situation rapidly. By contrast, the same units of income open far fewer opportunities for rich people because they already have most of their basic needs covered and have access to most basic consumption goods. Additional income only gives them more consumption goods.

Some empirical research also suggests that the marginal return of income is diminishing for other metrics such as “happiness” or “well-being”. This is often measured by self-reported subjective satisfaction which can be controversial. Yet, the claim is that well-being increases with income but only for poor social classes or for countries in the first stage of their development. The marginal return of income on individuals’ well-being is decreasing for rich individuals or rich countries, down to a point at which higher income or higher GDP has almost no impact on individuals’ satisfaction in rich social classes or countries⁷⁴. Because our well-being depends on our ability to realize the opportunities we value, the diminishing marginal return of income is likely to be true for a metric such as real freedom as well.

This clustering effect is also true for a good like “self-governing capacities”. Take the case of education and training. Basic education provides access to good jobs. But it also has an indirect impact on individuals’ health and life expectancy, and has other social outcomes on criminality, women reproductive choices, and so on⁷⁵. This is one reason why education is also included in the Human Development Index⁷⁶. However, for the few people achieving higher levels of education or qualification, top diplomas only open them a few new job opportunities. Therefore, it seems that lower levels of education have more impact on crucial

⁷² Wilkinson & Pickett 2010: 18-24

⁷³ Wolff & De-Shalit 2007: 119-155; Daniels 2008: 61, 79-88

⁷⁴ Among others: Diener & al. 1993: 204; Diener & Biswas-Diener 2002: 119; Veenhoven 1989: 15-18; 1991: 10; 1993: 127; Frey & Stutzer 2002: 90; Inglehart 2000: 219

⁷⁵ Rawls, O’Neill and many other insist on the importance of education or training (Rawls 2001: 139; O’Neill, in O’Neill & Williamson 2012: 79; OECD 2012: 162-212; Sen 1992). This is why Wolff and De-Shalit (2007: 119-155) point out that some functionings are very “fertile”.

⁷⁶ Wolff & De-Shalit 2007: 119-155; Pogge 2002: 213-214; Daniels 2008: 61, 79-88; OECD 2012: 162-212

aspects of people's lives than higher levels. Arnold also claims that improving self-governing capacities by giving workers access to less repetitive and alienating jobs is more important for disadvantaged people than for already advantaged people⁷⁷. Because of this clustering effect, it is safe to suppose that for metrics such as real freedom, the marginal returns of goods such as income and self-governing capacities are diminishing.

Positional goods: the cases of power and self-respect

The clustering effect derives from the fact that disadvantages tend to cluster because they are interconnected. But there is an additional reason explaining the diminishing marginal returns of goods such as power and self-respect. These goods are *positional goods*. Brighouse and Swift underline that *goods are positional* if “one's relative place in the distribution of the good affects one's absolute position with respect to its value”⁷⁸. Therefore, the value of a given unit depends on the amount *others have*. As Brighouse and Swift put it:

There is, then, much to be said in favor of equality with respect to positional goods. Permitting inequalities in education or political influence or legal representation does not merely benefit some while leaving others as well-off as they were before. The competitive features of the goods in question give them a zero-sum aspect; the mere fact that some have more worsens the absolute position of those who have less⁷⁹.

Lovett underlines that power is a positional good⁸⁰. Therefore, distributing power requires being aware of inequalities of power. When the distribution of power is unequal, Lovett claims that there is domination. The only way to protect the least well-off from domination and from arbitrary interference by others is to reduce inequalities of power⁸¹. The same is true for the social bases of self-respect. It is not as much the absolute status, but rather the relative status of people that affects their self-respect. The reason is that, in societies like ours, some social positions are regarded as having a higher status and prestige *than others*⁸².

Power and self-respect being positional goods, it means that inequalities of power and status *are* the very reason why the bundle of the least well-off is of low value. For this reason, it is safe to assume that the more the distribution of power or status departs from equality, the more poor people's opportunities will be negatively affected by an additional loss. Therefore, the marginal returns of power and self-respect also seem to be diminishing, *at least as far as the least well-off is concerned*. The first units of power or protection from domination and the first units of self-respect provide more new opportunities than the same units would provide to someone that is already free from outrageous situations of domination and self-deprecation. However, more research would be required to confirm these arguments empirically.

Goods with diminishing marginal returns have diminishing marginal substitution rates

The key idea is that whenever goods have a diminishing marginal return (either because of the clustering effect or because they are positional goods, or else), these goods will also have diminishing marginal substitution rates: other things equal, the less of a good there is in a bundle, the higher its substitution rate gets. This has consequences for substitutions. If we go back to the equation of *partial substitutes*, given “a”, the more units of “b” will be removed from the bundle, the higher the substitution rate *n* will get:

⁷⁷ Arnold 2012: 113-114. See also: Young 1990: 39-42, 56; 2006: 92-94

⁷⁸ Brighouse & Swift 2006: 472

⁷⁹ Brighouse & Swift 2006: 477

⁸⁰ The problem is that Lovett (2010: 41; 143) simply assumes it without demonstration.

⁸¹ Lovett 2010: 71-75, 144-151

⁸² Young 2006: 92-96; Wilkinson & Pickett 2010: 31-45; Axelsen & Nielsen 2015

$$M_1 \{a ; b\} = M_2 \{a+n\mu a ; b-\mu b\}, n \text{ marginally increasing}$$

Moreover, the cost of focusing only on the distribution of one good such as income rapidly becomes very high if there are several other goods. Indeed, for a substitution to be acceptable, public institutions would need to compensate for all other goods at the same time⁸³:

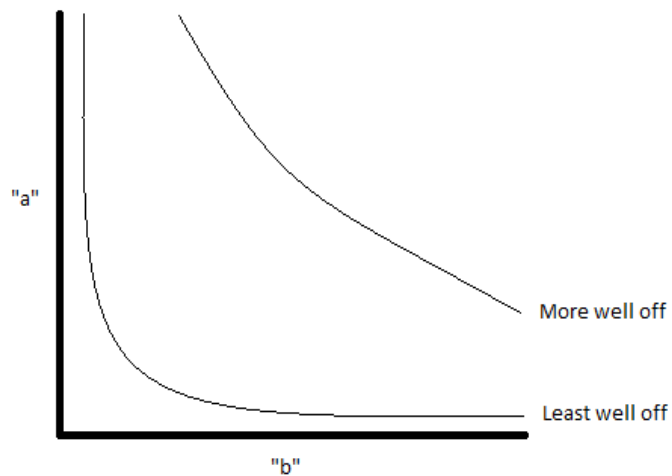
$$M_1 \{a ; b ; c ; d\} = M_2 \{a+3n\mu a ; b-\mu b ; c-\mu c ; d-\mu d\}, n \text{ marginally increasing}$$

This leads to conclude that the substitution rates may be low for people occupying higher social positions. However, the substitution rates of goods will get very high for people in disadvantaged positions. This is the underlying reason why Sir Wolf despises the situation of the Dog in La Fontaine's tale: for Sir Wolf, the *price* of being chained and dominated by masters is so high that the Dog's meals are insufficient to make the substitution acceptable.

Table 4: Indifference Curves

This conclusion can be best represented using indifference curves. These indifference curves represent all combinations of two goods "a" and "b" providing an identical amount of real freedom.

The substitution rates are very high for the least well-off because they have low levels of each social primary good. The substitution rates are much lower for more well-off people.



4 – How do scarcity constraints affect the feasibility of substitutions?

Scarcity constraints restrict the set of feasible substitutions

Now that I have analyzed the issue of substitutability *in theory*, the second problem is to analyze the feasibility of substitutions *in practice*. Substitutability, as we have seen, has to do with the properties of "a" and "b" and how they respectively contribute to the metric M. Goods can be *substitutes* or *complements*. If "a" and "b" both provide valuable opportunities, some "a" can substitute some "b" in the bundle of the least well-off.

But the feasibility of substitutions does not only depend on the substitution rates of social primary goods. It also depends on how *abundant* or *scarce* resources are. If all goods were *abundant*, the task of public institutions would simply be to maximize the quantity of each good in the bundle⁸⁴. Substitution rates would be irrelevant because tradeoffs between goods would never arise. Even if only one good was abundant and other goods were scarce,

⁸³ In this example, I suppose that the substitution rate n is the same for all goods. It is not necessarily the case.

⁸⁴ This seems to be the assumption Arnold (2013: 394) is making a bit quickly.

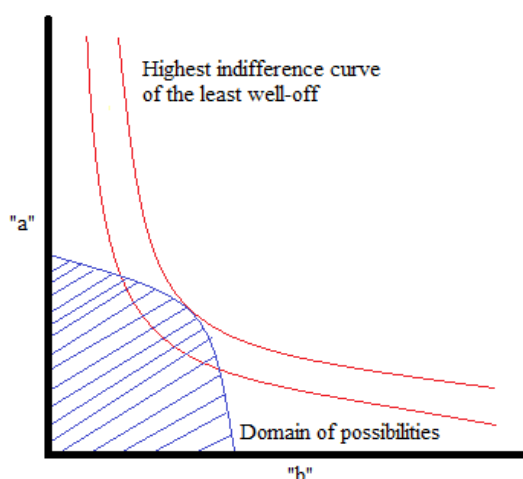
institutions would thus always have enough of it to afford any substitution of the other goods in the bundle of the least well-off, and substitution rates would still be irrelevant.

Until now, I conducted the analysis as if all substitutions were possible. However, if all goods are *scarce*, substitution rates get important because public institutions will be forced to make tradeoffs between goods and decide which combination of social primary goods to make available to the least well-off *among the combinations that are feasible*. Compared to the range of combinations that are possible in theory, the range of combinations that are feasible in practice may be more restricted (this is the domain of possibilities). Public institutions might not be able to afford the cost of some substitutions. In fact, the higher the substitution rate of social primary goods will get, the more difficult it will be for public institutions to afford the cost of a substitution. Therefore, they will need to find the combination of goods that can maximize real freedom *while being feasible*, given scarcity constraints:

Table 5: Domain of possibilities

The combination of two goods “a” and “b” that can maximize real freedom *while being feasible*, given scarcity constraints is best represented by the intersection of the indifference curve of the least well-off (given that we maximize his situation) and the domain of possibilities.

Public institutions will be able to afford a substitution more easily if the good that serves as a substitute is more abundant. The extent of the domain of possibilities thus depends on the relative scarcity of the goods involved in the real world.



Rawls' primary goods: are they scarce or abundant?

The question becomes: which combination of social primary goods *can* maximize real freedom, given scarcity constraints? In order to answer this question, we need to evaluate whether Rawls' social primary goods are *abundant* or *scarce*, and to what extent. One reason explaining how abundant or scarce external goods are is their natural availability. Other things equal, oxygen is relatively abundant compared to scarce diamonds.

However, when it comes to social goods, they need to be produced through work and social cooperation and their abundance or scarcity depends on the way social cooperation is organized. For instance, the amount of purchasing power available for distribution depends on how much people work and how efficient the cooperative system is organized. Moreover, because human time and efforts are limited, the production of some goods (such as cars) instead of other goods (such as bicycles) becomes a choice.

Therefore, the abundance or scarcity of social goods also depends on how *supplementary* or *rival* they are. Two goods are supplements if the availability of one good has very little effect on the availability of the other. For instance, because needles and buttons are both very cheap to produce, the extent to which producing some needle reduces the number of buttons we can produce is limited, which makes them close to supplements. However, social goods are

necessarily rivals to some extent because they required time and efforts to be produced. For our purposes, I define that two goods are “rivals” if producing more of one good necessarily reduces the production of the other, at least of an amount that is non-negligible⁸⁵.

The production of Rawls’ social primary goods depends on the way we organize social cooperation. To some extent, public institutions can provide some quantity of each primary good to the least well-off. However, they are rivals because raising the purchasing power of people can require reducing the amounts of protection from domination or self-governing capacities available for the least well-off for instance. Saying that social primary goods are scarce because they are rivals is not controversial, only how scarce and how rival is⁸⁶.

For example, it is safe to say that public institutions can secure some purchasing power and some protection from domination to the least well-off⁸⁷. However, some policies aiming at maximizing the purchasing power of the least well-off could be in tension with policies aiming at maximizing the protection from domination he enjoys. Tomasi claims that market deregulation would foster free exchange and thus maximize economic efficiency⁸⁸. This could maximize the purchasing power of everyone including the least well-off. But, that kind of policies might also increase capital mobility and competition which would reduce the bargaining power of workers, especially low-skilled workers in lower social positions. This would, therefore, reduce their protection from domination. By contrast, implementing a basic income or democratizing workplaces could increase workers’ protection from domination⁸⁹. But these policies could reduce incentives to work and to invest, and ultimately reduce economic efficiency. This could reduce the purchasing power of the least well-off. Therefore, we can conclude that Rawls’ social primary goods are rival and therefore *relatively scarce*.

5 – Is there an objective solution to the indexing problem?

Which combination of social primary goods can maximize real freedom?

Rawls argues that *prima facie*, social primary goods should be distributed in an equal way. Distributive inequalities “are to work to the benefit of those whose position has improved the least, *taking equal division as the benchmark*”⁹⁰. To some extent, public institutions can raise the total amount of one good such as purchasing power without affecting the amounts of other goods at all. They should do it whenever it is possible because it maximizes the situation of everyone including the least well-off. For example, allowing for small wage inequalities can create incentives making the whole economy more productive. Technological innovation can also make the economy more productive and raise the purchasing power of the least well-off. Raising purchasing power in these ways does not raise any issue of substitution.

Issues of substitutions only arise if public institutions want to raise the purchasing power of the least well-off by reducing his amount of other social primary goods such as protection from domination. For instance, suppose that a System of egalitarian organizations in which workers have the power inside economic organizations is the system in which everyone is

⁸⁵ The term “rival” is not used in the usual economic sense (a good for which the consumption by one prevents consumption by others). Here it means that given two goods, providing more of one good requires providing less of another good. Examples of this use are found in the work of Tomasi (2012: 189) and Arnold (2013: 394).

⁸⁶ Tomasi (2012: 189-191) and Arnold (2013: 394) only disagree about how scarce or rivalrous goods are.

⁸⁷ Arnold (2013: 394) claims that some socio-economic systems can provide some level of all goods.

⁸⁸ Tomasi (2012) is one of them. This claim can of course be contested.

⁸⁹ For more on basic income, see: Van Parijs 1995: 32-38. For workplace democracy, see: Malleson 2014: 27-53.

⁹⁰ Rawls 1993: 283-284 (*my italics*)

equally protected from domination. Public institutions are allowed to depart from a System of egalitarian organizations only if the alternative system they implement, say Welfare State Capitalism, can provide enough purchasing power to the least well-off to compensate them for the loss of protection from domination. Remember, the benefits in terms of purchasing power coming from wage incentives or innovation do not count because they are present in both systems. The gain in purchasing power that needs to be considered is only the one that derives directly from the fact that the least well-off has less protection from domination. For instance, because democratic decision-making involves higher transaction costs, a capitalist system would reduce transaction costs which could translate into higher wages. In these cases and theses cases only, we need to evaluate which combination of primary goods *can* maximize real freedom, given what we know about substitution rates and possible systems.

A plausible objective solution to the indexing problem

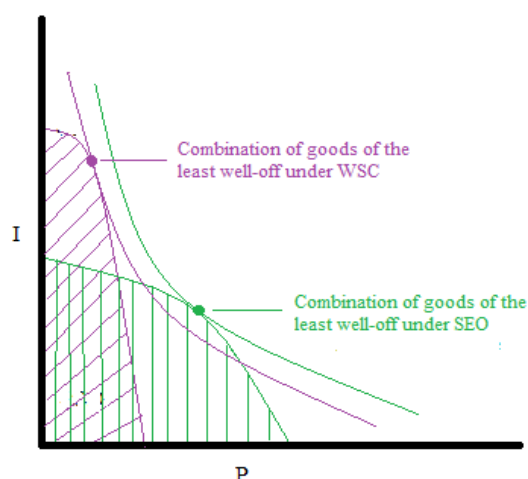
In a just or nearly just society, everyone is supposed to have a better situation than they would have in a strictly equal society. But nobody is extremely “rich”: total national product has to be shared with others in the form of fair incomes, everybody has some power but nobody is totally protected from arbitrary interference by others (because the only situation in which it is the case is when one is the master and all others are his slaves), and the same goes for the other social primary goods. In a nearly just society, the least well-off will probably have enough of each social primary good to be above the minimal requirement necessary to make a meaningful use of them and enjoy the fair value of his political liberties. But the least well-off will not have a very high amount of purchasing power or protection from domination. Therefore, the marginal substitution rates of the primary goods in his bundle will be high.

First, this means that the possibility of reducing justice to the distribution of one single good such as income, as Tomasi proposes, is ruled out. For such a *total* substitution to be feasible, the efficiency gains would need to be astronomic. Such a substitution is acceptable *in theory* but it would be impossible to afford *in practice*. Second, the higher substitution rates get, the more difficult it will be to afford the cost of a substantial substitution. Therefore, *substantial* substitutions will probably be too costly and therefore unaffordable as well. Even if such substitutions would be acceptable in theory, they would not be feasible in practice. Therefore, there might be cases in which public institutions will be able to afford some substitutions in the bundle of the least well-off, but this is likely to be restricted to very small substitutions.

Table 6: Acceptable and feasible substitutions

We compare (hypothetically) the respective capacities of a System of egalitarian organizations (SEO) and Welfare State Capitalism (WSC) to maximize the combination of income (I) and power (p) in the bundle of the least well-off.

We compare the combination that is at the same time *acceptable* (on the highest indifference curve of the least well-off) and *feasible* (in the domain of possibilities). This combination is higher in SEO than in WSC. SEO thus maximizes the freedom of the least well-off. The substitution of more income for less power under WSC is disadvantageous.



This is why, within the restricted settings of liberal egalitarianism and its objective metric of real freedom, and given plausible empirical assumptions about the relative efficiency of possible socio-economic systems, the indexing problem has an objective solution. Public institutions will probably not be able to realize justice if they implement a system depriving the least well-off of a substantial amount of any social primary good compared to a situation of equal distribution. This means that in a just society, the least well-off would have access to a social position combining a high amount of each primary good.

Solution to the indexing problem: Maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each primary good.

Because of the need for a political agreement among people with different preferences and needs, Rawls proposes an objective metric of freedom understood in terms of social primary goods attached to social positions. My contribution is to propose an *objective* solution to the question about which combination of social primary goods maximizes the real freedom of the least well-off. I argued that it is a combination of a high amount of each primary goods. This contrasts with Tomasi's solution who wants to reduce justice to the distribution of income and Arneson's one who thinks that there is no objective solution to the indexing problem⁹¹. My answer is not very surprising and the intuition seems to be shared by others such as Freeman or Arnold but they did not provide any demonstration of this intuition⁹². I provided arguments to demonstrate that the solution is a combination of a high amount of each primary good.

Note that, if this analysis is correct, it is not surprising that a well-paid and un-dominated university professor such as Tomasi claims that he would not give up some of his income for more control over his workplace. The rhetorical question asked to his colleagues, wondering whether they would accept this tradeoff, is also misleading⁹³. Privileged people like university professors, might prefer more income because they already have very good self-governing capacities, a high protection from domination and a high social status. The remarks of Tomasi mainly reveal that he overlooks the situation of the least well-off in our societies. Of course, because they are deprived of many goods at the same time, many workers may also prefer a bit more income immediately than a bit more power on future decisions. But this does not mean that they would not want more income *and* more power at the same time if this was possible. In fact, authors like Malleson have collected many surveys repeatedly showing that a vast majority of workers would actually like to participate more in workplace decisions⁹⁴.

Note also that this solution may have important consequences on how public institutions should regulate the economy and economic organizations in particular. Indeed, if a high amount of each social primary good is necessary to maximize the situation of the least well-off, promoting a System of egalitarian organizations in which workers have decision-making power inside firms may be justified because the efficiency gains in terms of income allowed by Welfare State Capitalism may not be sufficient to compensate for workers' lack of power in such system. This is why this discussion is important if we are to argue, as I will do in this thesis, for the promotion of egalitarian organizations. However, this solution does not assume anything *yet* about which policies are preferable in order to provide to the least well-off a high amount of each primary good. For example, it does not select the best way to distribute power or protection from domination. Some propose to promote democratic workplaces because it

⁹¹ Tomasi 2012: 190-191; Arneson 1990 : 445-446

⁹² Freeman 2007: 113; Arnold 2013: 394

⁹³ Tomasi 2012: 190-191

⁹⁴ Malleson 2014: 47-49

provides workers with direct formal power over decisions in firms. Others argue that a basic income is the best way to do so because it secures bargaining power to workers. Therefore, saying that distributing “power” is important does not necessarily imply defending direct democracy. Answering this question will require more normative and empirical analysis.

Main objection: are the empirical assumptions plausible?

The solution I propose is based on at least two empirical assumptions. The first assumption is that regimes such as a System of egalitarian organizations or a Property-Owning Democracy are sufficiently efficient to provide a high amount of each primary good and avoid the collapse of the economy. The second assumption is that the benefits of alternative systems such as Welfare State capitalism in terms of efficiency may be real but not very high. If so, these benefits in terms of income, for instance, would not be able to compensate for the lack of protection from domination or other primary goods of the least well-off under such systems. Indeed, remember that, because I showed that primary goods have high substitution rates, it is not sufficient to prove that Welfare State Capitalism has a positive impact on the level of income of the least well-off. Defenders of a Welfare State Capitalism need to prove either that their system is *so much more* efficient than alternatives that the amount of additional income generated is sufficient to compensate for the lack of other primary goods, despite high substitution rates, or that providing the least well-off with some protection from domination through participation in decision-making within his firm would have so disastrous consequences on economic productivity that it would dramatically reduce his income.

I will demonstrate later in this thesis that a System of egalitarian organizations or a Property-Owning Democracy can be very efficient economic systems. Rawls, Arnold, Malleson and many other authors gather compelling evidence to demonstrate that it is possible to secure substantial amounts of income, capital, power and other social primary goods to the least well-off without having dramatically negative effects on the productivity of the economy⁹⁵. But of course, a full answer to this question would require a more detailed empirical assessment of various socio-economic regimes and their respective impact on the production and distribution of each primary good, which exceeds the scope of this chapter. In Chapter 6, I will provide an appropriate answer to this question.

Conclusion – A social position combining a high amount of each primary good

In Chapter 3, I have underlined that liberal egalitarianism needs to solve the indexing problem in order to address adequately any issue involving the substitution of social primary goods. The second principle of justice requires maximizing the bundle of primary goods attached to the social position of the least well-off. But there is an old and widespread intuition that to make people free, money is not enough. People need other kinds of benefits, such as power, in substantial amounts. This intuition even found its way into La Fontaine’s famous tale.

The goal of this chapter was not to argue for a specific metric or list of goods. I assumed with Rawls that the relevant metric of distributive justice is freedom and that we can provide an objective evaluation of opportunity sets. This leads to assume that public institutions should focus on the distribution of a list of social primary goods. I focused on one specific

⁹⁵ Many authors gather compelling evidence providing good reasons to believe that. See for instance: Rawls 2001: 135-140; O’Neill, in O’Neill & Williamson 2012a: 75-100; Arnold 2013: 394-398, Malleson 2014: 54-89.

interpretation of Rawls' primary goods. The list includes purchasing power, the social bases of self-governing capacities, the social bases of protection from domination and the social bases of self-respect. But my analysis holds for any metric and list of goods sharing similar characteristics. The initial intuition was that having only one of them (even a lot of it) is not as good as having a mix of them. How to demonstrate this intuition?

If one can easily understand how to maximize *one* good like income, things get more difficult when it comes to maximizing an *index* of several goods. If real freedom is affected by several goods at the same time, it may be possible to substitute one good by another in the bundle of the least well-off. But all substitutions might not preserve the value of the bundle. As I said, in the literature, this is called the *indexing problem*: *Which combination of primary goods can maximize the real freedom of the least well-off?*

The *results* are the following. I have proposed, within the restricted setting of liberal egalitarianism, a solution to the indexing problem. I have demonstrated that Rawls' primary goods have diminishing marginal returns. Therefore, they also have diminishing marginal substitution rates. The less of a good there is in a bundle, the highest its substitution rate gets. I have concluded that liberal egalitarianism can provide an objective solution to the indexing problem. For any metric and list of goods sharing similar characteristics (separated goods, substitutable goods, with diminishing marginal return), given the substitution rates of social primary goods, and given some plausible empirical assumptions about the scarcity of social primary goods and the relative efficiency of possible socio-economic systems, there is an objective solution to the indexing problem. Very few substitutions are in fact feasible in practice at least as far as the bundle of the least well-off is concerned. Therefore:

Solution to the indexing problem: Maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each primary good.

The solution I propose is based on at least two empirical assumptions. The first assumption is that regimes such as a System of egalitarian organizations are sufficiently efficient to provide a high amount of each primary good and avoid the collapse of the economy. The second assumption is that the benefits of alternative systems such as Welfare State capitalism in terms of efficiency may be real but not very high. If so, these benefits in terms of income, for instance, would not be able to compensate for the loss of other social primary goods in the bundle of the least well-off. A full demonstration of these assumptions requires a more detailed empirical demonstration. In Chapter 6, I will provide such a demonstration.

The *contribution* of this chapter consists in proposing an objective solution to the indexing problem. This solution is restricted to a liberal egalitarian framework and to metrics and lists of goods sharing specific characteristics. It will be useful in following steps of the argument in order to avoid counter-arguments involving possible substitutions of primary goods.

What's next? Now that the principles of justice are clarified and that most potential misunderstandings are avoided, which are often the base of problematic objections down the way, I will analyze how to realize distributive justice. In Chapter 4, I will begin by reframing the debate in liberal egalitarianism between Property-Owning Democracy and Welfare State Capitalism and by evaluating the arguments in favor of one system or the other.

Second Part

**Arguing for a
System of egalitarian organizations**

Chapter 4

Arguing for a System of Egalitarian Organizations

Should public institutions promote egalitarian organizations or tolerate inegalitarian organizations?

At the same time, [...] the working class ought not to exaggerate to themselves the ultimate working of these everyday struggles. They ought not to forget that they are fighting with effects, but not with the causes of those effects; that they are retarding the downward movement, but not changing its direction; that they are applying palliatives, not curing the malady.

Karl Marx ([1865]: 74) – *Value, prices and profit*

Introduction

Most liberal egalitarian conceptions of justice hold that public institutions should respect everyone's freedom to pursue their conception of the good life and distribute to everyone the means of freedom¹. Rawls argues for a general presumption of formal freedom or against legal restrictions but public institutions are legitimate to impose legal restrictions whenever it is necessary to realize justice². Just institutions should respect two principles.

The *first principle* claims that “each person has the same infeasible claim to a fully adequate scheme of equal basic liberties”³ (for instance, freedom of expression, assembly, association...). But real freedom requires providing to everyone, as much as possible and impartially, a bundle of goods that allow them to realize their plans in life. According to Rawls, distributive justice consists in defining social positions corresponding to burdens of cooperation and attaching to them a bundle of goods⁴. The *second principle* claims that: “social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*”⁵.

The crucial issue consists now in identifying which *regime* or which *socio-economic system* best meets these two requirements of justice. While investigating this issue, political philosophers have overlooked for too long the contribution of organizations to the creation of inequalities. There are, it turns out, egalitarian and inegalitarian organizations which may have a crucial impact the realization of justice. This raises the following question: *Should public institutions promote egalitarian organizations or tolerate inegalitarian ones?*

¹ Rawls 2001: 39-50. Van Parijs (1991: 225) proposes an interpretation focusing on real freedom.

² On the general presumption against legal restrictions, see: Rawls 1993: 291-292, 358

³ Rawls 2001: 42

⁴ Rawls 1993: 283-284, 324-331; 2001: 50-51, 63; Freeman 2007: 109, 125; Van Parijs, in Freeman 2003: 214

⁵ Rawls 1971: 83

In Chapter 4, I will begin by defining what a System of egalitarian organizations would be and what I understand by egalitarian and inegalitarian organizations. I will argue that we should reframe the debate about which socio-economic system best meets the requirements of justice around the following alternative. A *System of egalitarian organizations* (SEO) requires public interventions to promote egalitarian organizations while *Strong Welfare State Capitalism* (WSC) avoids it, tolerates inegalitarian organizations, and implements alternative policies in order to meet the requirements of justice. Among all possible socio-economic systems, a System of egalitarian organizations and a Strong Welfare State Capitalism are the only ones respecting the first principle of justice and fair equality of opportunity. Therefore, the debate will be settled by their capacity to realize the difference principle over time.

I will then investigate whether liberal egalitarianism requires to promote egalitarian organizations or to tolerate inegalitarian ones. This chapter will serve as a critical literature review summarizing the main attempts to settle this debate. Based on existing literature, I will first gather the main arguments in favor of the promotion of egalitarian organizations. I will reject all the arguments belonging to the *moral and relational strategy* because they are not liberal. I will argue that the *liberal egalitarian strategy* is the only appropriate strategy to argue for egalitarian organizations. However, I will argue that this strategy, as it is, is not conclusive because the argument does not necessarily lead to the conclusion that public institutions should promote egalitarian organizations.

I will finally expose the two main arguments found in the literature against the promotion of egalitarian organizations. These arguments justify why public institutions should tolerate inegalitarian organizations. I will underline that both arguments are liberal. Public institutions should refrain from regulating organizations for two reasons: first, it could unnecessarily limit individual formal freedoms and second, it threatens economic efficiency and therefore could reduce the situation of the least well-off. If so, public institutions should not promote egalitarian organizations. They should instead tolerate inegalitarian organizations and implement alternative social policies to realize the requirement of justice.

However, I will underline that these two liberal arguments to tolerate inegalitarian organizations have a *shared weakness*. They are both based on a controversial assumption **A**: A Strong Welfare State Capitalism *is sufficient* to realize justice and succeeds at correcting all the unjust outcomes produced by inegalitarian organizations. I conclude that if liberal egalitarians are to argue for public interventions to promote egalitarian organizations, the only appropriate strategy consists in refuting assumption **A**. It consists in demonstrating that $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize justice because it fails at correcting all the unjust outcomes produced by inegalitarian organizations. If so, promoting egalitarian organizations becomes necessary to realize justice.

In Section 1, I will define a System of egalitarian organizations. In Section 2, I will propose to reframe the debate about the best socio-economic system around the choice between SEO and WSC. In Section 3, I will analyze the two main argumentative strategies in favor of promoting egalitarian organizations. Finally, in Section 4, I will analyze the two main arguments in favor of Welfare State Capitalism and in favor of tolerating inegalitarian organizations but I will underline that they both have a shared weakness (**A**). I will conclude that the only appropriate strategy is to exploit this shared weakness and demonstrate that a Strong Welfare State Capitalism is always insufficient to realize justice.

1 – Definitions: A System of egalitarian organizations

States have long been unequalitarian. In many societies, citizens have fought to make them more egalitarian by establishing universal suffrage, civil rights, political equality and basic social protections. Since the 1970s, liberal egalitarian philosophers such as John Rawls have tried to go further and have studied how political institutions should address unjust inequalities in economic resources and opportunities. But political philosophers have overlooked the role of economic *organizations* in the creation of unjust inequalities.

From now on, I will discuss whether public institutions should promote a *System of egalitarian organization* or alternative systems such as *Welfare State Capitalism*. This is the central issue of the thesis. Therefore, I think it is important to explain the main definitions involved in this debate and to expose what a System of egalitarian organizations is. This is important to provide a general idea of my proposition in this thesis. I will simply define the system here, and not enter into the details of how it works. I leave this task for Chapter 6.

How to define institutions and organizations?

Because liberal egalitarianism focuses on the regulation of institutions and because this has a major influence on the structure of organizations, a clear definition of institutions and organizations is important here. Institutions are *abstract* rules. They are abstract sets or formal or informal rules allowing, forbidding or influencing behaviors. Liberal egalitarianism focuses on the most important institutions having a profound impact on individuals' prospects in life (the basic structure of society): the political constitution, the judiciary system and the main socio-economic institutions such as private property and the regulation of competitive markets⁶. Institutions influence the structure of organizations in the socio-economic system.

Organizations are *concrete* associations of individuals sharing a purpose and dividing work between them. Formal organizations coordinate social cooperation and create social positions attached to some burdens and benefits of cooperation. For example, the political constitution is an institution and the state apparatus is the organization depending on it. Private property is another institution. Firms are organizations depending on it⁷. How private property is regulated influences the structure of firms and the social positions (the kind of jobs) they create. It can also influence decision-making structures and therefore the distribution of power, income and capital between the people involved (shareholders, workers and so on)⁸.

As I said, many authors have underlined that political philosophy has overlooked for too long the contribution of economic organizations in the coordination of economic activities and in the creation of inequalities. This is an important blind spot since business and government organizations have become the main tool for coordinating economic activities, instead of markets⁹. According to the economist Herbert Simon:

We are so accustomed to hearing our society described as a market economy that we are often surprised to observe that... markets have steadily declined, and business (and governmental) organizations have steadily grown as the principal coordinators of economic activity¹⁰.

⁶ Rawls (1971: 7, 54-60; 2001: 10) gives a similar definition.

⁷ Hansmann 1996: 1-23; Simon 2000. This distinction is ambiguous in Rawls (1971: 7, 54-60). Formal organizations (states, firms) specify their goal and structures. Informal organizations (the family...) usually don't.

⁸ Hansmann 1996: 11-23, 53, 89

⁹ Simon 2000; Dow 2003; Hsieh 2008b

¹⁰ Simon 2000

Economic organizations such as firms, insurance companies or groups of consumers have an important impact on societies and individuals' lives. People spend a considerable amount of time working in organizations and consuming their products. These organizations distribute some of the most important means required to realize our conceptions of the good life, such as income, capital, and power over important decisions. They also organize working schedules and thus have an important impact on domestic work, families and leisure time even outside the workplace. Therefore, their structure can be at the origin of some of the most important socio-economic inequalities¹¹. Theories of justice seem to have overlooked the importance of organizations and should now explore this blind spot. This is what has lead neo-institutional economists to study economic organizations evolving in markets and their transaction costs¹². I agree with Nien-Hê Hsieh to say that political philosophers should follow a similar path:

The discipline of economics is said to have been unconcerned, until relatively recently, about the organization of production. [...] To be certain, there have been scholars who have called for greater attention to be paid to the role of organizations in economics. Building on their insights, the study of organizations has become a central area of inquiry for economics. [I argue] for following a similar line of development in the study of what justice requires of social institutions¹³.

This thesis is an attempt at doing so. Just as economists compare various economic organizations in terms of their respective efficiency, political philosophers should evaluate various economic organizations in terms of their contribution to the creation of inequalities.

How to define economic organizations?

Institutional and neo-institutional economics take their origin in John. R. Commons' work. He criticized the neo-classic understanding of economic markets by showing how real economic markets were profoundly influenced by organizations like firms and central banks¹⁴. Inspired by Coase's observations about transaction costs, contemporary authors have demonstrated that the structure of economic organizations is important to help markets to work adequately and coordinate economic activities. In particular, economic organizations such as firms help to reduce transaction costs, to facilitate exchanges and to foster efficiency¹⁵.

Organizations reduce transaction costs through various mechanisms. First, by establishing long-term contracts, organizations limit the efficiency losses that would occur if new contracts were needed for each economic transaction. They also establish constraints that secure trust in these long-term contracts. Firms, but also consumers associations and government organizations also help to reduce market failures such as information asymmetries. Finally, firms help to institutionalize division of labor, teamwork and scale economies¹⁶.

The general idea is that collective constraints imposed by governmental or business organizations do reduce individual choices but help to produce economic advantages because they facilitate exchanges, increase the information flow, and modify individual incentives. These advantages explain the existence of such economic organizations in the market¹⁷. For Simon, "organizations have grown until the vast bulk of our economy's activity takes place within the walls of individual large business corporations, not in markets"¹⁸.

¹¹ Dahl 1985; Stiglitz 2012; Piketty 2013; Malleson 2014

¹² See for instance: Coase 1937; Goodin 1996; Hansmann 1996; Simon 2000

¹³ Hsieh 2008b: 95

¹⁴ Goodin 1996: 7-9

¹⁵ Coase 1937; Simon 2000

¹⁶ Goodin 1996: 9-10; Hansmann 1996: 27; Heath 2006b: 336; Simon 2000

¹⁷ Goodin 1996: 20 ; Simon 2000

¹⁸ Simon 2000

Henry Hansmann, one of the most important neo-institutional economists, proposes a simple and standard way to characterize economic organizations. I will discuss his view in Chapter 6, but for now, let's simply say that for Hansmann, enterprises are mainly characterized by their *ownership* structure. A firm's owners are the persons who share two formal rights: "the right to *control* the firm and the right to appropriate the firm's *profit*, or residual earnings"¹⁹. Depending on their ownership structure, they will have different organizational designs, different distributive outcomes, and different transaction costs. There are many possible configurations and thus many forms of organizations because, in theory, the rights to control and to residual earnings could be separated and given to different groups of persons. A worker cooperative is simply a firm giving the control and the right to residual profits to the workers. By contrast, a conventional business corporation is, in fact, a cooperative of lenders or investors, in other words, a capital cooperative, which gives the control and right to residual profits to the group of people providing capital to the firm²⁰.

The allocation of these two rights to different groups has consequences. The way firms are organized has consequences on the distribution of social primary goods between social positions. The way firms are organized also has consequences on efficiency. For instance, the dispersion investors in the world (reducing their effective control) and the homogeneity of their interests (reducing disagreements) reduce the transaction costs associated to decision-making in capital cooperatives. By contrast, the need to take decisions democratically and to accommodate the interests of all workers raises transaction costs in worker cooperatives²¹.

How to define egalitarian and inegalitarian organizations?

Economic organizations can be more or less egalitarian. Some organizations create less inequality. For instance, a worker cooperative like the Mondragon Corporation Cooperativa – a group of more than 120 cooperatives in the Spanish Basque country – pays managers only six times the wage of the lowest paid worker-member because all worker-members are the owners. Worker-members also share the capital and the power inside the firm. We will see the limits of this model but worker cooperatives definitely create less inequality²². By contrast, many organizations today are still very inegalitarian. For instance, Joseph Stiglitz underlines that the governance in capitalist firms is an important factor explaining the rise in income inequalities experienced in societies such as the United States of America, where CEOs often earn many hundred times the wage of their lowest paid worker²³. Thomas Piketty also underlines that capital inequalities are even more important. A small minority of people owns the great majority of wealth, including firms' shares²⁴. Robert Dahl, Iris M. Young, and Tom Malleson underline that firms' structures also influence inequalities in decision-making power about very important decisions such as the division of labor and investment choices²⁵.

Within a Rawlsian liberal egalitarian framework, organizations should be considered as egalitarian if they create social positions attached to equal or nearly equal bundles of each social primary good. For instance, these are organizations producing an equal or nearly distribution of income and capital, an equal or nearly distribution of protection from domination through democratic decision-making, and an equal or nearly equal distribution of the social bases of self-governing capacities and self-respect through the division of labor.

¹⁹ Hansmann 1996: 11 (*my italics*)

²⁰ Hansmann 1996: 11-17. Some criticize this framework (Dow 2003: 92-114; Gosseries 2012). Cf. Chapter 6

²¹ Hansmann 1996: 18-23. I will analyze these distributive and efficiency issues in detail in Chapters 5 and 6.

²² Whyte & Whyte 1991: 44-45; Malleson 2014: 54-83. I will analyze the case of Mondragon in Chapter 6.

²³ Stiglitz 2012: 106-116; Malleson 2014: 76-80

²⁴ Piketty 2013: 196, 385

²⁵ Dahl 1985: 132; Young 2006: 94; Malleson 2014: xiv, 6, 140, 158

Organization should be considered as *inegalitarian* if they create social positions attached unequal bundles of each social primary good. For instance, these are organizations producing an unequal distribution of income and capital because of *inegalitarian* wage policies and the exclusion of workers from participation in ownership, unequal protection from domination because of undemocratic decision-making processes, and unequal social bases of self-governing capacities and self-respect because of the pyramidal division of labor.

The terms “egalitarian” and “inegalitarian” organizations intuitively refers, at first sight, to the internal distribution of social primary goods, *inside* organizations. Organizations creating less inequality inside them are likely to contribute to creating less inequality in society in general. However, this is not necessarily the case because they could produce more inequalities between firms. Some firms only hire highly skilled workers and outsource other tasks, creating inequalities *between* organizations. I will come back to the issues related to intra-firm and inter-firms inequalities later in Chapter 6.

But from now on, I define that organizations qualify as “egalitarian” only if they reduce both inequalities *inside* and *between* organizations. Organizations that are more egalitarian *inside* them, but create inequalities *between* firms will be considered as *inegalitarian* organizations. The final definition that I will use in this thesis is therefore the following:

Egalitarian organizations create less inequality *inside* or *between* them.
Inegalitarian organizations create more inequality *inside* or *between* them.

Of course, this is a matter of degree. In real world circumstances, perfectly egalitarian organizations may not exist. There are also very good reasons to accept the existence of small inequalities in society at large, but also *inside* each firm, in order to create adequate work incentives and attract skilled workers where they are most needed. Small inequalities *between* firms could also have the benefit of stimulating dynamic competition. Yet, egalitarian organizations will create very small inequalities for some primary goods (such as income) while *inegalitarian* organizations will create large inequalities for all primary goods²⁶.

How to define a System of egalitarian organizations?

Liberal egalitarian theories of justice, such as the one Rawls proposes, focus on comparing socio-economic “systems” or “regimes”. A just system, or a just regime, is a coherent scheme of rules and policies that in the end, all together, succeeds in realizing all the principles of justice. There is no way to judge the value of one single policy or one single organization in the abstraction of the other policies, their interactions and their respective impact on the distribution of social primary goods. Therefore, a theory of justice needs to be able to identify which system can best realize all the requirements of social justice²⁷. In this thesis, I argue that a *System of egalitarian organizations* is the best system to realize distributive justice.

A System of egalitarian organizations would be one in which public institutions use public resources and do everything else that is necessary to promote egalitarian organizations in all sectors of the economy. Such a system would promote organizations that distribute *all* social primary goods more equally *inside* them, including purchasing power, protection from domination, self-governing capacities, and self-respect. Such a system would do so in all sectors of the economy because the nature of the activities and the organizational structures of economic organizations lead to specific kinds of inequalities in each sector.

²⁶ As in “liberal *egalitarianism*”, the concept of “*egalitarian* organizations” is compatible with small inequalities.

²⁷ Rawls 1971: 57; 2001: 135-136; Van Parijs 1995: 27; Schemmel 2015: 396

Organizations managing *production*, for example, are responsible for the creation of social positions associated with wages, shares of the firm, decision-making inside the firm, and division of labor inside the firm. Evidence shows that some organizations of production are more egalitarian than others. Worker cooperatives for instance often have low wage gaps, they provide a democratic environment in which everyone has a right to participate in decision-making or at least has his interests represented. They also provide more stable employment because they react to market fluctuations by adjusting hours or wages instead of firing workers. They finally secure healthier working conditions because the interests of the workers are taken into account. By contrast, investor-owned firms create income and capital inequalities, have hierarchical structures and make it easier for managers to fire workers²⁸. Of course, there are various possible configurations for allocating profits and control and some are more difficult to implement than others. I will investigate this at the end of the thesis²⁹.

Organizations managing the production of goods and services are not the only ones to create inequalities. For instance, I have not talked about the way to organize the *production of ideas*³⁰. Contrary to tangible goods, intangible goods (such as music) have low reproduction costs and are non-rival in consumption. If the system allows excluding people from the use of ideas, for instance through patents or copyright law, rich owners will be able to reproduce them at a negligible cost, sell them and make important profits while poor owners will not be able to pay the cost of preventing copies. By contrast, public or collective organizations funding research or artistic production and allowing everyone to use the ideas they produced without patents and copyrights are more egalitarian ways to organize the production of ideas.

The organization of production is not the only source of unjust inequality. The way we coordinate (or fail to coordinate) *consumption* can also create various social and economic inequalities³¹. Therefore, public institutions should target the origin of these inequalities as well. What justice requires from the coordination of consumption has attracted very little attention in the philosophical literature yet. Some argue in favor of the promotion of collaborative consumption associations allowing shared access to the use of goods instead of the individual property of consumption goods. This is a pressing issue given the rise of the “sharing economy” (sharing goods instead of owning them individually). The term designates a mix of very different kinds of consumption associations, such as Zipcar, Uber, and Airbnb. We would need to evaluate various forms of collaborative consumption associations and evaluate which ones contribute most to reducing inequalities. Some could help to reduce the cost of living and avoid inefficient consumption while others would not³².

Organizations *managing risks* can also create or maintain inequalities of opportunities and social primary goods. *To begin*, there is the issue of how best to organize social and health insurance schemes. *Then*, one important source of risk in our societies is also the risk of investments. Motivating people to invest their savings in the economy is important to stimulate growth and to make capital accessible and help firms to invest in research and development. But investments involve the risk of losing the capital invested. The financial system manages this risk. Some propose that public institutions should promote egalitarian

²⁸ Dahl 1985: 132; Whyte & Whyte 1991: 44-45; Dow 2002: 57-66; Malleson 2014: 27-33, 56, 76-83

²⁹ Hansmann 1996: 11-23; Elster 1989: 100. I will analyze distributive and efficiency issues related to various forms of organizations in more detail in Chapters 5 and 6.

³⁰ Malleson 2014: 43-44; Pogge 2011

³¹ Researchers have already investigated various ways to coordinate consumption and the rise of collaborative consumption. See for instance: Hansmann 1996; Dow 2003; Malleson 2014; Bostman & Rogers 2010; O'Neill & Williamson 2012a; Belk 2014; Schor 2014

³² Choi 2001; Waldman 2003

and democratic financial organizations. Today, financiers' power to provide or restrict credit or businesses' power to control investments decisions is undemocratic. The financial system gives to very few people too much political and economic influence³³. We should investigate the specific inequalities created by the structure of financial organizations and what to do about them. For instance, cooperative banks can pool (at least partially) the risks of investments and give more power to local communities on investment choices³⁴.

Therefore, in order to realize a System of egalitarian organizations, public institutions need to target the source of each specific kind of inequalities³⁵. Moreover, such a system needs to reduce inequalities *between* firms. Therefore, public institutions could need to regulate firms in order to foster the diversity of economic activities within each organization and limit the possibility of outsourcing or exclusion (as the case of Mondragon suggests for instance). It is important to note that the promotion of egalitarian organizations can very well take place within a market economy. What changes is simply the kind of organizations evolving and competing within markets. We would have a cooperative market economy instead of a capitalist market economy (by reference to organizational ownership structure). Indeed, market economies have very important advantages and it is crucial to preserve them³⁶.

What about other sources of inequality?

The dominance of egalitarian or inegalitarian organizations within the socio-economic system contributes a lot to the creation of inequalities, not only within them but in society in general. Of course, other factors are often mentioned to explain inequalities in our societies. But most of the time, these other factors are mostly multiplying factors: they create more inequalities only within socio-economic systems dominated by inegalitarian organizations.

For instance, Piketty points out that managers are more and more mobile and thus social norms, comparisons, and network effects continue to drive their income to higher levels, sometimes even to inefficient levels³⁷. However, this does not happen within worker cooperatives because workers decide wage policies³⁸. In addition, Piketty became famous for demonstrating that in a world in which financial capital is very unequally distributed, as soon as the rate of return on capital is higher than the rate of growth (i.e. when " $r > g$ "), inequalities are deepening³⁹. However, he himself recognizes that this would have far less effect on inequalities if financial capital was more equally distributed. Therefore, this would not create more inequalities if the socio-economic system was dominated by egalitarian organizations such as worker cooperatives in which workers share the ownership of the capital of the firm⁴⁰.

Avi-Yonas also underlines that since the 1980s, capital is more mobile. Therefore, fiscal policies have become more and more regressive and have increasingly targeted labor income and consumption instead of capital income in order to attract foreign investments⁴¹. But capital is so mobile only capitalist firms dominate the market. Moreover, if income and capital were fairly distributed this evolution of the fiscal system would create less inequality.

³³ Malleson 2014: 137-138, 154-163

³⁴ Meade 1964, 1989; Fleurbaey 1993; Dow 2003; Williamson & al. 2003; Birchall 2013; Malleson 2014

³⁵ On worker co-ops and community banks: Malleson 2014. On collaborative consumption: Botsman & Rogers 2010

³⁶ I will discuss in more detail the benefits of market economies in Chapter 6.

³⁷ Piketty 2013: 497-533. See also: Stiglitz 2012: 106-116; Malleson 2014: 76-80

³⁸ Whyte & Whyte 1991: 44-45; Malleson 2014: 54-83

³⁹ Piketty 2013: 53-57. " r " is the return on capital and " g " the rate of growth.

⁴⁰ Piketty (2014) recognizes it in an interview with Martin O'Neill in *Renewal*.

⁴¹ Avi-Yonas 2000; 2011; Murphy & al. 2012; Dietsch 2015; TJN 2014:

<http://www.taxjustice.net/2014/05/23/tax-chart-day-us-taxes/>

The OECD says instead that education and technological changes make low-skilled workers more precarious and create more inequality. More and more economists, tone down the importance of this factor to explain inequalities⁴². But more importantly, the influence of this factor largely depends on the institutional context. It increases inequalities only if firms react to technological change by hiring high-skilled workers and firing low-skilled workers. By contrast, because all workers in worker cooperatives take decisions collectively, when a new technology increases productivity, they tend to react by adjusting wages and working hours and training their workers in order to protect low-skilled workers from losing their job⁴³. The OECD also mentions that a global economy leaves unions with less negotiating power, which ends up creating more inequalities. But of course, this does not affect inequalities within cooperatives because workers already have formal decision-making power inside their firm.

This quick overview thus suggests that the ownership structure and governance of economic organizations contributes a lot to the creation of inequalities, not only within them but in society in general, even if other factors can have a multiplying effect.

2 – Should we go beyond the debate between POD and WSC?

Choosing a socio-economic system

Liberal egalitarians claim that public institutions should secure a more egalitarian distribution of socio-economic benefits but this does not necessarily imply that justice or equality must prevail in every organization. The “system” or “regime” best able to realize a just distribution could tolerate inegalitarian organizations. Rawls underlines that: “an institution may be unjust although the social system as a whole is not” for instance if “within the structure of an institution or social system one apparent injustice compensates for another”⁴⁴. Any public decision requires comparing entire *socio-economic systems*. We need to compare systems in which egalitarian organizations dominate the market with systems in which inegalitarian ones dominate and assess their respective distributive outcomes⁴⁵. If we adopt such an approach, one question to ask in our context is: In order to realize justice, should public institutions promote a system of egalitarian organizations or should they promote other systems, tolerating inegalitarian organization and implementing alternative distributive policies?

The distinction between egalitarian and inegalitarian organizations helps to clarify what distinguishes *socio-economic systems*. Some systems require public interventions to promote egalitarian organizations (for instance through the regulation of corporate governance). Other systems avoid regulating organizations and tolerate inegalitarian ones, but use other policies to realize justice (for instance through progressive taxation and redistribution). Therefore, one way to characterize various systems is to distinguish them by the way in which public institutions aim at realizing justice, which can be reduced to two relevant variables:

- (1) *Strong or low use of organizations’ regulation*: ex. public institutions could or not impose egalitarian ownership structures and democratic governance to all economic organizations so that income inequalities between social positions remain under a 1:10 ratio.
- (2) *Strong or low use of other regulations to correct inequalities created by inegalitarian organizations*: ex. inegalitarian organizations would create a 1:200 income ratio but thanks to tax-and-transfer policies, they remain under a 1:10 ratio.

⁴² OECD 2011; Piketty 2013: 487-497

⁴³ Malleson 2014: 77

⁴⁴ Rawls 1971: 57

⁴⁵ Rawls (2001: 135-136) or Van Parijs (1995: 27) make remarks on the importance of comparing *entire systems*.

This is a way to reframe the ongoing debate within liberal egalitarianism which, for now, crystallizes around the question whether public institutions should choose *Property-Owning Democracy* (POD) or *Welfare State Capitalism* (WSC). We should go beyond this debate between POD and WSC and reframe it around the question whether public institutions should promote egalitarian organizations or tolerate inegalitarian ones. Indeed, one way to illustrate the infinite variety of possible socio-economic systems is to think of a *continuum* going from an entirely state-owned and centrally-planned egalitarian economy to a complete “laissez-faire” market capitalism tolerating inegalitarian organizations, with a variety of hybrids combining various forms of public interventions⁴⁶. I will illustrate various options on this continuum by five representative systems. Most of these systems are largely inspired by Rawls and Meade and have been widely discussed in the literature⁴⁷:

Table 7: Five illustrative socio-economic systems	State Socialism	System of Egalitarian Organizations	Strong WSC	Weak WSC	“Laissez-faire” Capitalism
Organizations’ regulation	Very Strong	Strong	Low	Low	Low
Other regulations	Low	Low	Strong	Moderate	Low

State Socialism: (1) *Very strong use of organizations’ regulation*. Public institutions own economic organizations, forbid other forms of organizations, manage capital and investments (means of production) plan the economy and organize work (I don’t include forms of market socialism). (2) *Low use of other regulations or policies*. The distribution is already just because public institutions directly allocate resources equally⁴⁸.

Meade and Rawls, after him, also include in the list a “Property-Owning Democracy”, characterized not only by a just distribution of income but also by a just distribution of financial and human capital. Meade distinguishes two ways to reach this distributive ideal. I will insist later on why it is important to understand them as two alternative systems⁴⁹.

System of egalitarian organizations: (1) *Strong use of organizations’ regulation*. The first way proposed by Meade consists in promoting more egalitarian forms of organizations with alternative ownership structures allowing profits-sharing such as worker cooperatives for instance. In this way, egalitarian organizations dominate the market⁵⁰. While allowing private property, markets and decentralized economic decisions, the structure of organizations in such a system avoids the creation of large inequalities of income, financial and human capital, and decision-making power inside and between them⁵¹. (2) *Low use of other regulations or policies*. Once again, the distribution between social positions produced by such organizations is already less unequal and closer to one respecting the difference principle. Taxes and transfers, as well as other redistributive mechanisms, are thus less useful. Moreover, workers already have full power in their firms so unions are less needed to balance bargaining power.

⁴⁶ Freeman (2007: 105, 219-235) offers a summary of the debate in liberal egalitarianism about these systems.

⁴⁷ Rawls 2001: 136; Meade 1964. There are of course many hybrids. See for instance: Elster & Moene 1989

⁴⁸ Rawls 2001: 138. Freeman (2007: 220-222) underlines that this is how Rawls understands State Socialism.

⁴⁹ Meade 1964; Elster 1986: 150; O’Neill & Williamson 2012a: 22, 79

⁵⁰ Meade 1964; Freeman 2007: 220; O’Neill, in O’Neill & Williamson 2012a: 79

⁵¹ Malleson (2014: 199) shows how much *market socialism* and *economic democracy* are similar.

Strong Welfare State Capitalism: (1) *Low use of organizations' regulation.* The second way proposed by Meade to realize a Property-Owning Democracy is compatible with less public interventions in the structure or organizations. Public institutions tolerate inegalitarian organizations such as capitalist firms. Therefore, such firms can dominate the market. Large inequalities would thus be created if nothing else was done. (2) *Strong use of other regulations and policies.* Yet, public institutions implement a strong and universal Welfare State preventing and correcting inequalities created by inegalitarian organizations. This includes aggressive tax-and-transfer redistributive schemes, universal social insurance schemes, investments in public education and active support of unions for instance⁵².

Weak Welfare State Capitalism: What most people, including Meade and Rawls, have in mind when they refer to “Welfare State Capitalism” is not the strong version I just outlined above but rather the following *weak* version. This also happens to be the most widespread system in western economies. (1) *Low use of organizations' regulation.* Public institutions intervene very little in the economy and therefore tolerate many inegalitarian organizations. (2) *Moderate use of other regulations and policies.* Public institutions implement weak redistributive policies, only what is minimally required to secure a decent life and some social protection. They tolerate large inequalities of financial and human capital⁵³.

“Laissez-faire” Capitalism: This is the system that Milton Friedman or Robert Nozick would prefer. (1) *Very low use of organizations' regulation.* Public institutions only secure that people respect contracts. (2) *Very low use of other regulations and policies.* Taxes and social insurances are minimal⁵⁴.

Which socio-economic systems respect the principles of justice?

I will now explain why liberal egalitarians have reasons to reject three of these five illustrative systems. Here is a summary of the claims that I will make in the following lines:

Table 8: Are principles of justice respected?	State Socialism	System of Egalitarian Organizations	Strong WSC	Weak WSC	“Laissez-faire” Capitalism
First principle	No	Yes	Yes	No	No
Fair equality of opportunity	Yes	Yes	Yes	No	No
Difference principle	Maybe	Maybe	Maybe	No	No

Rawls rejects State Socialism because it unnecessarily limits individuals' formal freedoms such as freedom of association or freedom of occupational choice⁵⁵. Rawls also rejects “Laissez-faire” Capitalism because it would not respect the fair value of political liberties and fair equality of opportunities (it would be too inegalitarian)⁵⁶.

⁵² Of course, there are historical reasons explaining why states have not pushed forward more intrusive reforms.

⁵³ Rawls 2001: 137-138; Freeman 2007: 224-226. Rothstein (1998: 146) distinguishes (strong) universal welfare states and (weak) “selective” welfare states (little intervention in the economy, little spending in transfers, little prevention programs, social programs financed by out-of-pocket payments instead of taxation and risk pooling).

⁵⁴ Friedman (1962: 32, 119) argues for a minimal state and a free market.

⁵⁵ Rawls 2001: 138, Freeman 2007: 222

⁵⁶ (...nor the difference principle, in fact) Rawls 2001: 137-138; Van Parijs 1991: 225; Freeman 2007: 219-224

Rawls explicitly rejects contemporary Welfare State Capitalism because he says it does not protect the fair value of political liberties (because the rich preserve too much influence on politics), it preserves unfair inequalities of opportunities, and it preserves unnecessary large income and capital inequalities that are not justified by the difference principle⁵⁷:

Welfare State Capitalism... rejects the fair value of the political liberties, and while it has some concern for equality of opportunity, the policies necessary to achieve that are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands [...]. In Property-Owning Democracy, on the other hand... institutions must, from the outset, put in the hands of citizens generally, and not only the few, sufficient productive means for them to be fully cooperating members of society⁵⁸.

However, many authors such as O'Neill or Schemmel disagree with Rawls on this last point. They think, as I do, that with adequate safeguards, a *Strong Welfare State Capitalism* can actually be compatible with political equality and fair equality of opportunity, for example by implementing stronger policies reducing income inequalities, isolating politics from the influence of money and blocking intergenerational transmission of capital⁵⁹. Therefore, only *Weak* forms of Welfare State Capitalism face these criticisms.

To conclude, among all possible socio-economic systems, it seems that a *System of egalitarian organizations* and a *Strong Welfare State Capitalism* are the only ones respecting the first principle of justice and fair equality of opportunity. Therefore, the debate will be settled on their respective capacity to realize the difference principle over time.

I will now start investigating whether liberal egalitarianism requires to promote egalitarian organizations or to tolerate inegalitarian ones. Based on the existing literature on this debate, I will discuss two main argumentative strategies in favor of public intervention to promote egalitarian organizations and two main arguments against the promotion of egalitarian organizations and thus for the toleration of inegalitarian ones.

3 – What are the arguments to promote egalitarian organizations?

Since the 19th century, many authors have argued to promote more egalitarian economic organizations such as worker cooperatives and have criticized the Welfare State. In this section, I will provide a review of two main argumentative strategies found in the literature to justify the promotion of egalitarian organizations and criticize the Welfare State⁶⁰.

A 1st strategy can be called the *moral and relational strategy*. This strategy consists in claiming that egalitarian organizations secure morally good social relationships in society while inegalitarian organizations lead to the development of morally bad social relationships. If so, even if the Welfare State could try to correct all unjust distributive outcomes, inegalitarian organizations would still remain objectionable because the morally bad social relationships they create would still exist. I will reject all the arguments belonging to the *moral and relational strategy* because they are not liberal.

⁵⁷ Rawls 2001: 137-138; Freeman 2007: 224-226. For empirical support of these claims, see also: Atkinson, Piketty, Saez 2011: 6; OCDE 2011: 22; Piketty 2013: 591-598

⁵⁸ Rawls 2001: 137-138. Large wealth inequalities creates political inequalities (Gilens & Page 2014)

⁵⁹ O'Neill, in O'Neill & Williamson 2012a: 77-90, 93; Schemmel 2015: 397

⁶⁰ See for example: Mill [1848]; Marx [1865]; Fraser 2005; Malleson 2014: 19. For a good summary of the main argumentative strategies to argue for egalitarian organizations, see: Dow 2003: 23-44

A 2nd strategy is the *liberal egalitarian strategy*. This strategy accepts a liberal and distributive framework. However, as it is, this strategy only consists in arguing that promoting egalitarian organizations is legitimate because *contemporary Weak Welfare States* fail to correct all unjust distributive outcomes produced by inequalitarian organizations. I will argue that the *liberal egalitarian strategy* is the appropriate strategy to argue for egalitarian organizations. But as it is, it is not conclusive because the argument does not necessarily lead to the conclusion that public institutions should promote egalitarian organizations.

1st Strategy: the moral and relational strategy

The 1st strategy consists in arguing that a System promoting egalitarian organizations is required because egalitarian organizations secure the development of morally good social relationships while inequalitarian organizations create morally bad social relationships. For instance, Welfare State Capitalism would preserve bad working relations or productive processes that should be abolished irrespective of their distributive consequences, even if all unjust *distributive* outcomes created by inequalitarian organizations could be corrected.

There are many examples of this general strategy. The first example of this strategy can be traced back at least to Karl Marx or analytical Marxists. According to one interpretation of marxism, individuals should live authentically human lives. Human activities should thus be accomplished voluntarily, for themselves and for free. Individuals are alienated as long as they continue to work for wages in order to fulfill their needs. Therefore, a productive process that leads to alienation is always bad, irrespective of its other potentially good consequences, because human activities should never aim at anything else than self-accomplishment. According to another interpretation, workers are entitled to the entire net product of their labor and should decide voluntarily what to do with it. Workers are exploited as soon as non-workers (typically capitalists) have the power to appropriate for themselves a part of workers' net product. Therefore, a productive process that leads to exploitation is always bad, irrespective of its other potentially good consequences, because despite what workers think (given the possibility of false consciousness) they are entitled to the full net product of their labor and any unequal exchange is always a bad thing⁶¹.

Alienation and exploitation are therefore always bad and require to be “cured”. Policies that would only focus on correcting the distributive outcomes of alienating or exploitative productive processes would be insufficient to solve the problem. Based on these normative assumptions, Marxists point to the need to radically change economic structures and criticize the Welfare State and Capitalism⁶². Of course, during Marx's time, Welfare States and social movements only started to arise. Unions were useful but Marx already underlined that they would miss entirely their goal if, instead of reforming the entire society, they simply fought a daily fight for higher wages. He makes the distinction between revolutionary policies that would “cure” the maladies and the “palliatives” such as Welfare State and unions:

At the same time, and quite apart from the general servitude involved in the wages system, the working class ought not to exaggerate to themselves the ultimate working of these everyday struggles. They ought not to forget that they are fighting with effects, but not with the causes of those effects; that they are retarding the downward movement, but not changing its direction; that they are applying palliatives, not curing the malady⁶³.

⁶¹ Arnsperger & Van Parijs 2003: 46-53; Vanderborght & Van Parijs, *forthcoming*

⁶² Marx and some marxists claim that they have no normative project. Yet, there is an implicit normative agenda in most marxist approaches (Arnsperger & Van parijs 2003: 43-46; Vanderborght & Van Parijs, *forthcoming*).

⁶³ Marx [1865]: 73. This intuition is also found elsewhere in his work: Marx [1865]: 74; [1875]: 84-85

Iris M. Young also underlines that what is important in Marx's view is to change the relations of production leading to alienation or exploitation because they are necessarily bad:

In Marx's view, the relations of production should be the primary focus of concern [...]. The relations of production have a distributive element – namely, that some people own capital resources while most do not, and therefore most must work for wages in order to live. Relations of production, however, refer primarily to the processes of investment, production, marketing, technological invention, and so on, through which owners accumulate profit by exploiting the labor of some and marginalizing others⁶⁴.

A second and more recent example of this general argumentative strategy identifying some good or bad social relationships is Anderson's argument for a "democratic" conception of equality. According to her, beyond the abolition of exploitation and alienation, egalitarians should consider that any hierarchical relationship is a bad relationship. Egalitarians should, therefore, promote *egalitarian relationships* everywhere, in all social organizations:

Egalitarians base claims to social and political equality on the fact of universal moral equality. These claims also have a negative and a positive aspect. Negatively, egalitarians seek to abolish oppression – that is, forms of social relationship by which some people dominate, exploit, marginalize, demean, and inflict violence upon others... Positively, egalitarians seek a social order in which persons stand in relations of equality. They seek to live together in a democratic community, as opposed to a hierarchical one... Certain patterns in the distribution of goods may be instrumental to securing such relationships, follow from them, or even be constitutive of them. But democratic egalitarians are... concerned with the relationships within which goods are distributed, not only with the distribution of goods themselves. This implies... that democratic equality is sensitive to the need to integrate the demands of equal recognition with those of equal distribution⁶⁵.

A third example of this argumentative strategy is derived from the analogy between States and firms. Robert Dahl adopts such an argument. For him, "if democracy is justified in governing the state, then it is also justified in governing economic enterprises"⁶⁶. In other words, he claims that democratic decision-making processes are always good and should prevail in all social arrangements, at all levels, and in all organizations. Whenever an association of competent people must reach binding decisions, decision-making processes should be democratic⁶⁷. Undemocratic social relationships would therefore always be bad.

Objection: The objection to all the arguments belonging to this 1st strategy is straightforward. They are not liberal arguments because they are not compatible with the requirements of public reason. In a liberal, non-perfectionist perspective, we cannot designate some social relationships as good or bad irrespective of their distributive consequences. Public institutions should limit themselves to realizing a just distribution of primary goods such as the *social bases* of meaningful relationships, and should let people choose which relations to develop.

Public institutions cannot say that social relationships involving alienation, exploitation or hierarchy are necessarily bad. Because of the plurality of conceptions of the good, individuals may have legitimate reasons to accept to work for a wage, despite the fact that this constitutes alienation, or to accept that a part of "their" production will serve to pay capital returns in order to create incentives for investments, despite the fact that this constitutes exploitation.

⁶⁴ Young 2006: 92

⁶⁵ Anderson 1999: 313-314. This presumption for democracy is also found in Young (1990: 222-225; 2006: 94)

⁶⁶ Dahl 1985: 134-135. Dow (2003: 27-32) underlines that many authors follow this line of argumentation.

⁶⁷ Dahl 1985: 57-59. Young (1990: 222-225) also defends an intrinsic conception of democracy and uses the analogy between States and firms to justify democracy within firms.

In a liberal egalitarian framework, a just society could also be compatible with the existence of undemocratic and hierarchical firms. People should be free to work in undemocratic or hierarchical organizations if they want to and if it is useful for them to realize something else they value, for instance, if they prefer to enjoy more mobility and leisure or to avoid taking risks, on the condition that this is compatible with the realization of distributive justice⁶⁸.

As I said, Rawls underlines that: “an institution may be unjust although the social system *as a whole* is not” for instance if “within the structure of an institution or social system one apparent injustice compensates for another”⁶⁹. Therefore, if public institutions as a whole are able to realize a just distribution of all social primary goods, the fact that some productive processes lead to alienation and exploitation, or the fact that some organizations are undemocratic and hierarchical is not necessarily bad or necessarily unjust if other mechanisms succeed nevertheless to maximize the situation of the least well-off. This is also why Dow and others deny that states and firms are parallel cases. To begin, of course, States have a very strong power of coercion from which citizens need to be protected and exiting a territory controlled by a state is much more costly than exiting a firm⁷⁰. But more importantly, Dow underlines that “there might be good reasons for withholding control rights even when workers do want them. The interest of society as a whole may demand that other goals take priority, perhaps including efficiency goals”⁷¹. To conclude, liberal egalitarians should therefore only evaluate institutional arrangements on *instrumental* grounds, i.e. on how specific institutional arrangements contribute to realizing a just distribution of social primary goods. This is why having a democratic state and undemocratic firms could be legitimate if this is necessary to maximize the situation of the least well-off over time.

Now, one version of this 1st strategy is a bit more subtle. This version consists in arguing that justice requires distributing not only “economic goods” such as income and wealth, but also “non-economic goods” such as the social conditions of social recognition or self-respect. The argument is that while promoting egalitarian organizations solves both economic and non-economic injustices, Welfare State Capitalism fails to correct both at the same time.

This version of the strategy can be found in the “theories of recognition” such as the ones developed by Iris M. Young or Nancy Fraser⁷². For them, beyond material equality, everyone should benefit from an equal status in order to develop a positive conception of their person and to get social recognition. Therefore, public institutions need to transform economic structures instead of simply correcting economic inequalities because otherwise “recognition” injustices would persist. This is why Young criticizes the “distributive paradigm”:

While patterns of the distribution of resources, opportunities, and income are very important issues of justice, theoretical focus on them tends to deflect attention from important aspects of structural processes in at least two ways. First, focus on distribution pays too little attention to the processes that produce the distributions. Second, focus on distribution of benefits and burdens obscures important aspects of structural processes that do not fit well under a distributive paradigm [*for instance*] those concerning the social division of labor, structures of decision-making power, and processes that normalize behavior and attributes of persons⁷³.

⁶⁸ Of course, whether this condition is respected can be debated (Rawls 2001: 12-15, 32-38, 135-136; Kymlicka 2002: 191; Freeman 2007: 59, 88; Van Parijs 1991: 225; 1995: 21-27; Van Parijs, *in* Freeman 2003: 224-225)

⁶⁹ Rawls 1971: 57

⁷⁰ Dow 2003: 28, 41-42. I will explain in Section 4 why the level of exit freedom within organizations is irrelevant to make any argument for or against the promotion of egalitarian organizations.

⁷¹ Dow 2003: 42

⁷² Fraser (2005: 16-21) puts under this banner authors like Charles Taylor, Axel Honneth and Iris M. Young.

⁷³ Young 2005: 91

For Young, even if material or economic resources are fairly redistributed, some socio-economic structures or cultural norms create unequal social recognition or self-respect and thus contribute to “non-distributive” inequalities. Young provides some well-known examples of such structures or norms: decision-making structures within organizations allow decision-makers to discriminate against people belonging to specific ethnic or sexual groups, the sexual division of labor excludes some groups such as women from accessing valorizing social positions, and cultural prejudices lead to the stigmatization of ethnic communities⁷⁴.

This has led recognition theorists to propose the promotion of more egalitarian organizations, among other policies, and to criticize the Welfare State. For instance, Fraser argues that “transformative” mechanisms, not only “corrective” ones, are required in order to solve *economic* and “*recognition*” (or “cultural”) injustices:

The corrective remedies to injustice are those who aim at correcting unfair outcomes of social organization without affecting their profound causes [...]. The transformative remedies target the profound causes. [...] Corrective remedies have historically been associated with liberal welfare states. They aim at correcting the outcomes of an unjust distribution but keeping intact economic structures [...]. Far from abolishing class differences, corrections reinforce and reconfigure it. [...] Transformative remedies aim at solving unjust distributions by transforming the underlying economic structure [...]. This explains their tendency to eliminate class differences. Transformative remedies solve inequalities without stigmatizing some class [for benefiting of social transfers for instance]⁷⁵.

Fraser thus claims that public institutions need to transform socio-economic structures by implementing “universal social insurance schemes [and] a large public sector” but also by promoting egalitarian organizations through “public or collective forms of property”. Public institutions should also “transform underlying cultural evaluation structures. By destabilizing existing identities and differences, [transformative] remedies change everyone’s sense of the self”. For example, “the goal is not the solidification of some homosexual identity but the deconstruction of the heterosexual/ homosexual dichotomy aiming at destabilizing all fixed sexual identities. Deconstruction opposes any sedimentation of gender differences...”⁷⁶.

But even if we accept that economic and recognition injustices are both important, why not simply use some corrective mechanisms targeting economic injustices and other corrective mechanisms targeting recognition injustices? The reason proposed by Fraser is that corrective mechanisms cannot solve economic and recognition injustices *at the same time*. First, correcting mechanisms targeting economic injustices tend to preserve and reinforce recognition injustices. The reason is that production relations create prejudices which can threaten the recognition of some groups. For instance, the division of labor between high-skilled prestigious jobs and low-skilled repetitive jobs traps the working class into poorly-paid and unrecognized tasks. Sexual division of labor also traps women in unpaid and unrecognized domestic work. In such situation, even if income redistribution can solve economic injustices, it would reinforce recognition injustice. Indeed, tax transfers can make recognition inequalities worse by depicting the working class as a deficient and assisted class and depicting women as dependent, unproductive, and unable to assume the same tasks as men⁷⁷. Second, Fraser argues that correcting mechanisms targeting recognition injustices tend reversely to reinforce economic injustices. For example, revalorizing domestic work could

⁷⁴ Young 2006: 92-95. Fraser (2005: 16-21, 25-27) also raises the same examples.

⁷⁵ Fraser 2005: 31-34 (*my translation*)

⁷⁶ Fraser 2005: 31-34 (*my translation*). Butler (*in* Cudd & Andreasen 2005) holds similar propositions.

⁷⁷ Fraser 2005: 26-27, 33-40. Young (2006: 93) also mentions sexual division of labor.

help women to keep a positive conception of their person and promoting affirmative action (positive discrimination) could help them to have access to more social positions. However, these policies could also reinforce the stereotype that women are dependent and unable to assume men's tasks. In turn, this could maintain their economic exclusion⁷⁸.

Objection: First, if we understand “non-economic” injustices as bad social relationships, this strategy is reducible the previous versions of the argument and faces the same objection. In a liberal, non-perfectionist perspective, public institutions should only provide everyone with the polyvalent means enabling them to realize any reasonable conception of the good and let them choose which social relationships they value. They should not judge and impose which social relationships are good or bad, or which ones are necessary to have access to social recognition or self-respect. If individuals have all the basic freedoms and polyvalent goods to make free decisions, it is up to them to take their life in charge and chose their identity and the relations they want to develop with other people⁷⁹. Indeed, some people could value some relationships implying the kind of collective identities that Fraser and Young are beware of. For instance, some men and women might not want to “deconstruct” gender differences⁸⁰.

Indeed, from a liberal point of view, recognition theories are mainly problematic because they are always concerned about the recognition of “groups” (“working people”, “homosexuals”, “women”...) ⁸¹. But some individuals might not feel the need to belong to the class or group that is assigned to them by such abstract categorizations. They might also feel to be simultaneously part of many different social groups that could be advantaged in some aspects and disadvantaged in others. Moreover, individuals' within these “groups” might not have homogeneous interests: some homosexuals might want to be recognized “as a distinct group” while others would prefer to “deconstruct sexual distinctions”. For liberals, identity differentiations should be left to individual evaluation and such differentiations are not necessarily problematic as long as they do not create distributive injustices.

But second, if we adopt a more charitable understanding of this argument, which consists in arguing that public institutions should not only distribute “economic goods” such as income and wealth but also distribute “non-economic goods” such as the social conditions of social recognition or self-respect, we can also raise an important objection to this approach.

In this case, the objection consists in underlining that Rawls' “distributive paradigm” is not in contradiction with this specific understanding of recognition theories. Indeed, Rawls does not only include income and wealth in the list of social primary goods but also the social conditions or “social bases” of self-respect⁸². The main difference between Rawls' theory and recognition theories is that Rawls argues that public institutions should remain *publicly acceptable* and therefore non-perfectionist, and focus on the distribution of *workable* goods. This is why Rawls argues that public institutions should distribute the most *polyvalent* goods and on their workable “social bases”. As Arnold puts it: “Primary goods, Rawls holds, must respect the limits of the practical: they must be amenable to objective measurement through a process that's simple enough to be ‘workable’ for everyday politics”⁸³. The distribution of goods such as self-respect depends on *external* institutional conditions that are easier for

⁷⁸ Fraser 2005: 27-30, 37, 43

⁷⁹ Rawls 1993: 178-190; 2001: 171. See also: Freeman 2007: 59, 88; Van Parijs 1995: 21-24, 27

⁸⁰ Rawls 1993: 178-190

⁸¹ Fraser 2005: 21-30

⁸² Arnold 2012: 97. See also: Rawls 2001: 57-61, 171-175; Pogge 2002: 216-217

⁸³ Arnold 2012: 97

public authorities to identify and to measure⁸⁴. This is why “social recognition” itself or “self-respect” itself cannot be directly distributed. Indeed, public authorities cannot measure “social recognition” or have access to “internal mental” states of self-respect.

Therefore, Rawls’ “distributive paradigm”, focusing on the distribution of social primary goods, is not being blind to “non-economic” injustices⁸⁵. If public institutions realize a just distribution of all social primary goods including income and wealth but also the social bases of self-respect, individuals will have all the means to develop meaningful relationships and have access to social recognition and self-respect. However, the fact that public institutions should distribute other social primary goods such as the social bases of self-respect does not necessarily lead to the conclusion that justice requires institutions to promote egalitarian organizations. Indeed, Fraser herself acknowledges that stronger Welfare States implementing more “radical” and more effective correcting mechanism would be able to correct economic and recognition injustices *at the same time*. For example, she mentions that a universal basic income can very well correct economic and non-economic inequalities at the same time by avoiding the stigmatization of beneficiaries⁸⁶. Justice might not necessarily require the promotion of egalitarian organizations if these alternatives can correct all injustices. Therefore, as it is, even the most charitable version of the argument is still inconclusive.

2nd strategy: the liberal egalitarian strategy

The 2nd strategy is the liberal egalitarian strategy. This strategy accepts that institutional arrangements must be evaluated on their distributive consequences but consists in claiming that promoting egalitarian organizations is a good way to realize a just distribution of social primary goods, especially if the contemporary Welfare States are too weak to do so.

Martin O’Neill provides a version of this argument⁸⁷. He underlines that Rawls supports a Property-Owning Democracy in which financial and human capital is fairly distributed. For Rawls, Welfare State Capitalism is too weak and preserves large income and capital inequality which prevents to secure the fair value of political liberties and fair equality of opportunity⁸⁸:

Welfare State Capitalism... rejects the fair value of the political liberties, and while it has some concern for equality of opportunity, the policies necessary to achieve that are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands [...]. In Property-Owning Democracy, on the other hand... institutions must, from the outset, put in the hands of citizens generally, and not only the few, sufficient productive means for them to be fully cooperating members of society⁸⁹.

As I said, O’Neill disagrees with Rawls on these two points. O’Neill thinks, as I do, that with adequate safeguards, a *Strong* Welfare State Capitalism can actually be compatible with political equality and fair equality of opportunity, for example by implementing stronger policies reducing income inequalities, isolating politics from the influence of money and blocking intergenerational transmission of capital⁹⁰.

⁸⁴ Rawls 1971: 90-95; 1993: 178-190; Rawls 2001: 57-61; Pogge 2002: 208-212; Arnold 2012: 97

⁸⁵ The same goes for relational egalitarians such as Anderson (1999) or Néron (2015). Public institutions should focus on distributing the *social bases* necessary to choose and develop meaningful social relationships.

⁸⁶ Fraser 2005: 94-97. In fact, many corrective measures might have transformative long term effects. Think of a basic income (Van Parijs 1995: 30) or redistribution of capital (O’Neill, in O’Neill & Williamson 2012a: 79, 93).

⁸⁷ O’Neill & Williamson 2012a: 2; O’Neill, in O’Neill & Williamson 2012a: 75-93

⁸⁸ Atkinson, Piketty, Saez 2011: 6; OCDE 2011: 22; Piketty 2013: 591-598

⁸⁹ Rawls 2001: 137-138

⁹⁰ O’Neill, in O’Neill & Williamson 2012a: 77-90, 93

O'Neill grounds instead his argument for Property-Owning Democracy on the requirements to realize the difference principle. He thinks that implementing a Property-Owning Democracy realizing a fairer distribution of financial and human capital is necessary to realize a just distribution of all social primary goods including power and self-respect. For him, income redistribution schemes in Welfare State Capitalism are too weak and therefore are insufficient to realize the requirements of the difference principle.

Jacob Hacker proposes a similar argument. He proposes to focus on *ex ante* distribution or “predistribution”, rather than simply *ex post* distribution or “redistribution”. Hacker has a very large definition of predistribution which includes any public intervention aiming at reducing pre-tax income inequality while redistribution is restricted to taxes and transfers⁹¹:

When we think of government's effects on inequality, we think of redistribution – government taxes and transfers that take from some and give to others. Yet many of the most important changes have been in what might be called “pre-distribution” – the way in which the market distributes its rewards in the first place... The moral of this story is that progressive reformers need to focus on market reforms that encourage a more equal distribution of economic power and rewards even before government collects taxes or pays out benefits⁹².

O'Neill has wisely noticed that this is only another way to reframe differently the debate between Property-Owning Democracy and Welfare State Capitalism:

Instead of equalizing unfair market outcomes through tax-and-spend or tax-and-transfer, we instead engineer markets to create fairer outcomes from the beginning. [...] the need for *ex post* redistribution is reduced as the *ex ante* distribution of economic power is made more fair and equitable... Meade's property-owning democracy would [also] go beyond the constraints of redistributive policies by looking fundamentally to change individuals' economic power within markets. It would do this by significant redistribution of control over both human and non-human capital. Meade's approach to pre-distribution thus involved a society where social justice was promoted not only by raising wages through substantial investment in education and training, but also by giving every citizen a capital stake... Real, radical forms of pre-distribution do not so much allow governments to tax less in absolute terms; rather, they require a fundamental shift in the focus of taxation from income to wealth⁹³.

O'Neill, Hacker, and others conclude that public institutions should, among other policies, promote egalitarian organizations because they create a fairer distribution of social primary goods within them⁹⁴. Tom Malleon is one of the authors arguing explicitly that public institutions should promote egalitarian and democratic organizations, what he calls “economic democracy” which requires democratizing workplaces, markets, and financial institutions, because they create more equality of income, wealth, and power within them⁹⁵:

⁹¹ Hacker 2011; O'Neill & Williamson 2012b. The distinction between *ex ante* and *ex post* distribution is raised by many authors using various interpretations of it. A clear definition is not easy to provide and the one proposed here by Hacker raises many problems. First, his definition raises the problem of the temporality of public policies and their distributive effects. Indeed, all public regulations are implemented simultaneously and that it is not so easy to specify what policy comes first. Second, most *ex post* policies have retroactive effects on pre-tax income as well. Hacker himself classifies early childhood education or support to unions in *ex ante* distribution while this obviously requires taxes and preexisting public intervention. Instead, I think that the most meaningful way to define “predistribution” is to restrict it only to the regulation or economic organizations responsible for creating the distribution of social primary goods between social positions and extend “redistribution” in order to include all other public regulations such as tax-and-transfer, support to unions and so on.

⁹² Hacker 2011. See also: Hacker & Pierson 2010: 44

⁹³ O'Neill & Williamson 2012b

⁹⁴ Dow (2003: 24) underlines that this is a common argument in favor of labor-managed firms for instance.

⁹⁵ Mallson 2014: xvi, 51-86

A non-hierarchical economy is entirely possible and indeed much preferable [...]. In general, the main benefits that flow from increased economic democracy... are those of increased freedom (in terms of accountability as well as self-determination), increased equality (in terms of formal rights and status, as well as wages and wealth), and less hierarchy, alienation, and powerlessness [i.e. less power inequality]⁹⁶.

Objection: The objection to this 2nd strategy is straightforward: the argument is inconclusive. The fact that egalitarian organizations distribute social primary goods more equally within them does not necessarily lead to the conclusion that justice requires public institutions to promote them. Again, for Rawls, “an institution may be unjust although the social system *as a whole* is not” for instance if “within the structure of an institution or social system one apparent injustice compensates for another”⁹⁷. Aiming at a more egalitarian distribution does not necessarily require making sure that each and every organization is egalitarian but only that the socio-economic system as a whole produces a more egalitarian distribution. Indeed, promoting egalitarian organizations may have costs which would reduce the situation of the least well-off. By contrast, alternative systems such as Welfare State Capitalism might very well succeed in realizing more distributive equality while being more efficient⁹⁸.

O’Neill, Hacker or Malleson do not provide a justification for choosing the promotion of egalitarian or democratic organizations over alternatives such as strengthening Welfare State Capitalism. For instance, Malleson rejects too quickly the “social democratic objection”:

Think of Sweden or another social democratic country where workers have heightened bargaining power due to a combination of a strong welfare state, powerful unions, and state regulation of business. In such a context, is there still a need for workplace democracy?”⁹⁹.

Indeed, the fact that the contemporary Welfare States are *currently* too weak to realize justice does not necessarily lead to the conclusion that public institutions are legitimate to promote egalitarian organizations. It only provides an argument to strengthen the Welfare States. A very strong Welfare State, implementing a global tax on wealth, more investments in education and so on, may very well be able to realize the requirements of justice¹⁰⁰. Indeed, David Schweickart, while defending economic democracy, recognizes how little differences there are between this system and a strong Welfare State implementing policies to redistribute financial and human capital (but without workplace democracy)¹⁰¹. Philippe Van Parijs also argues that an unconditional basic income would increase everyone’s real freedom and bargaining power¹⁰². Justice might not necessarily require the promotion of egalitarian organizations if these alternatives can also realize distributive equality¹⁰³.

As I said, Meade distinguishes two ways to realize a Property-Owning Democracy and reach a better distribution of financial and human capital¹⁰⁴. The first *more intrusive* way is similar to the System of egalitarian organizations. It requires strong regulations of ownership structures fostering more egalitarian organizations, profit-sharing schemes, worker-owned

⁹⁶ Malleson 2014: xvi

⁹⁷ Rawls 1971: 57

⁹⁸ Dow (2003: 24-27) criticizes equality arguments on this ground.

⁹⁹ Malleson 2014: xxi; 44-45

¹⁰⁰ Piketty 2013 : 835; O’Neill, in O’Neill & Williamson 2012a: 79

¹⁰¹ Schweickart, in O’Neill & Williamson 2012a: 215

¹⁰² Van Parijs 1995: 30

¹⁰³ Dow 2003: 24-27

¹⁰⁴ Meade 1964. Jon Elster (1986: 150) and more recently Chambers and O’Neill (both in O’Neill & Williamson 2012a: 22, 79) underline these two institutional ways to realize a Property-Owning Democracy.

firms and workplace democracy to reduce inequalities inside organizations or between them¹⁰⁵. While allowing private property, competitive markets, and decentralized economic decisions, the way economic organizations are regulated forbids the creation of important inequalities in all social primary goods¹⁰⁶. The second *less intrusive* way consists in strengthening the Welfare State. O'Neill underlines that realizing a Property-Ownning Democracy could indeed require policies such as a universal basic income, aggressive capital redistribution schemes, investments in education and support to unions for instance. These policies mainly redistribute financial capital (through capital taxation) and human capital (through investments in education)¹⁰⁷. Rawls gives no priority to one way or the other¹⁰⁸.

There are at least two reasons to treat these two ways as alternative socio-economic systems. First, neither Rawls nor more contemporary authors address the fact that one way is less intrusive than the other. Nor do they offer much of an argument for favoring one way over the other. They seem to consider these two ways as complementary, as if these policies were part of some kind of “egalitarian toolkit” and as if they were normatively equivalent¹⁰⁹. Second, neither of them addresses the fact that promoting egalitarian organizations may have higher costs for the overall efficiency of the socio-economic system, which may affect the situation of the least well-off, while alternative systems such as a Strong Welfare State Capitalism might very well succeed in realizing distributive justice while being more efficient¹¹⁰.

Therefore, these authors do not provide a convincing argument to justify the promotion of egalitarian organizations. They have only managed to argue that both a System of egalitarian organizations and a Strong Welfare State Capitalism could *contribute* to the maximization of the situation of the least well-off, and they have managed to provide good arguments for strengthening the Welfare State by implementing massive capital redistribution schemes and strong investments in education in order to distribute human capital. As O'Neill recognizes himself: “a comprehensive strategy of pre-distribution is not a straightforward *replacement* for the more familiar redistributive mechanisms of the traditional welfare state, but should, instead, be seen as in part an *extension* of those mechanisms”¹¹¹.

But they have not managed yet to argue that it is *necessary* for public institutions to promote egalitarian organizations. Intervening to promote egalitarian organizations such as worker cooperatives may be unnecessary to realize distributive justice, and if so, it would not be legitimate¹¹². As it is, the argument is also inconclusive.

¹⁰⁵ Meade 1964; Freeman 2007: 220; O'Neill, in O'Neill & Williamson 2012a: 79

¹⁰⁶ Malleson (2014: 199) shows how *market socialism* and *economic democracy* are very similar.

¹⁰⁷ Meade 1964; Freeman 2007: 219, 220; Hacker 2011; O'Neill, in O'Neill & Williamson 2012a: 79; O'Neill & Williamson 2012b. Thomas Piketty (2013: 835) proposes a global tax on capital. In fact, most of Hacker's propositions for “predistribution” involve fiscal reforms and almost none of them target corporate law.

¹⁰⁸ Rawls 2001: 137, 178. Strong wealth redistribution and investments in education are important but he seems sympathetic to workplace democracy and even thinks market socialism is not incompatible with his principles.

¹⁰⁹ O'Neill, in O'Neill & Williamson 2012a: 77. Piketty (2014) also underlines that: “Meade, just like me, believed that progressive taxation and the development of other forms of property relationships and of other forms of governance are complementary institutions”.

¹¹⁰ Dow (2003: 24-27) criticizes equality arguments on this ground.

¹¹¹ O'Neill & Williamson 2012b. See also: O'Neill, in O'Neill & Williamson 2012a : 93

¹¹² Van Parijs 1995: 30; Dow 2003: 24-27

4 – What are the arguments to tolerate inegalitarian organizations?

We have seen that for now, liberal egalitarians can argue that, among all socio-economic systems, the only ones that respect the first principle and fair equality of opportunities are a System of egalitarian organizations and a Strong Welfare State Capitalism. However, we have seen that the defenders of the promotion of egalitarian organizations seem to consider that the policies belonging to one system or the other are all part of an “egalitarian toolkit” and are normatively equivalent. They have not managed to propose convincing arguments to justify that we should choose the promotion of egalitarian organizations over the policies of Strong Welfare States. By contrast, I will now show that there are two liberal egalitarian arguments to prefer a Strong Welfare State Capitalism over a System of egalitarian organizations. If these two arguments were valid, they would justify that public institutions should tolerate inegalitarian organizations and avoid intervening too much in the structure of economic organizations¹¹³. However, I will show that if both arguments are liberal, both of them are potentially inconclusive because they are based on a shared controversial assumption.

1st argument: the formal freedom argument

A 1st argument found in the literature insists on protecting individual freedom. As I already said, freedom can be defined as: “the capacity of an agent (x), to realize a choice (y), without any constraint (z)”¹¹⁴. *Formal freedom* is simply the absence of legal constraint (z) whereas *real freedom* includes the capacity (x) and opportunities (y) of the agent, which depends on individuals’ external and internal resources, as well as non-legal constraints (z)¹¹⁵.

Defenders of minimal states and free markets like Friedman, Nozick or Tomasi think that only *formal freedom* matters. Therefore, they claim that almost any public intervention is unjust¹¹⁶. However, Rawls and all liberal egalitarians think that restrictions to formal freedom can be justified if it is necessary to secure justice and thus to maximize the *real freedom* of the least well-off. Therefore, some market regulations are allowed¹¹⁷. That being said, it does not mean that any concern for the protection of formal freedom disappears. Therefore, it is possible to build a liberal egalitarian case against public intervention to promote egalitarian organizations based on the requirement that public institutions should respect individuals’ formal freedom.

First, let me note that neither a System of egalitarian organizations nor a Welfare State Capitalism violates the *first principle* and the priority of *equal* basic formal freedoms¹¹⁸. The standard liberal egalitarian justification for that consists in saying that the first principle only applies to the “central range of application” of basic freedoms and that economic regulations are outside this central range¹¹⁹. I argued in Chapter 1 that this answer is not satisfying. The original argument in that chapter was that the priority of the first principle only applies to the *equal* distribution of basic formal freedoms, because they are extremely positional, but that the content of each basic formal freedom could vary if this was necessary to realize justice. Therefore, even if a System of egalitarian organization or a Strong Welfare State Capitalism restrict basic formal freedoms such as freedoms of property, association or occupational

¹¹³ Malleson (2014: xxi) also points out the two arguments analysed in this section.

¹¹⁴ This is a definition we can foresee in Rawls (1993: 324-326) and explicitly stated by MacCallum (1967: 314).

¹¹⁵ This includes natural constraints and social norms (Rawls 1993: 324-326; Van Parijs 1991: 225; 1995: 20-25).

¹¹⁶ Friedman 1962: 32; Tomasi 2012: 48-49. Nozick (1974: 250) thinks that individuals are free to join cooperatives if they want to, but that states cannot force anyone to do so.

¹¹⁷ Anderson (2015: 48) underlines how current laws restrict formal (negative) freedom for equality purposes.

¹¹⁸ Rawls 2001: 43. Cf. Chapter 1, Section 5

¹¹⁹ Rawls 2001: 111; Freeman 2007: 68-72

choice, they do not violate the priority of the first principle as long as they restrict basic formal freedoms in an equal way for everyone (i.e. as long as they avoid discrimination such as abolishing basic freedoms for some ethnic groups and not for others). Similarly, even if SEO or WSC redistribute some of the income we make on the market, they do not violate the first principle because the property that is legitimately ours and that institutions are required to protect is defined by a set of institutions including organizations and markets but also the tax system¹²⁰. Therefore, it may be legitimate to restrict the basic right to property by subjecting everyone to the same tax code in order to realize distributive goals¹²¹.

Second, let me note that the level of “exit freedom” or “right to exit” within organizations does not necessarily justify any claim for or against equality *inside* organizations¹²². Of course, freedom of association and freedom of exit are always limited in economic organizations at least because involuntary unemployment exists and because people don’t necessarily *want* to exit even if they get some monetary compensation. Material necessities and cultural pressure to work as well as a lack of desirable alternatives limit the freedom to quit an exploitative workplace and to choose the occupation we prefer¹²³. But this simply implies that freedom of association cannot justify inequalities created by these organizations. It helps to reject the idea that inequalities are justified because individuals choose voluntarily to join an organization¹²⁴. But if this justifies the need for redistribution, it can very well be done at the level of society in general, using tax laws or collective bargaining. Intervening to change the structure of organizations is not *necessarily* required. Therefore, no argument for or against the promotion of egalitarian organizations can be based on exit freedom alone.

Instead, the only valid argument that could be based on freedom in order to argue against the promotion of egalitarian organizations and for Welfare State Capitalism should be based instead on the general presumption of formal freedom, or against legal restrictions. Rawls insists that “there is, to be sure, a general presumption against imposing legal and other restrictions on conduct [...]. But this presumption creates no special priority for any particular liberty”¹²⁵. Yet, public institutions should intervene only to the extent that it is *necessary* to realize justice. If two systems are equally good at realizing justice, public institutions should choose the one that is the least intrusive, i.e. restricting formal freedom the least.

Therefore, someone could argue that a System of egalitarian organizations is unnecessarily intrusive. Indeed, regulating labor contracts or governance within productive enterprises constitutes restrictions of formal freedom and thus “interferences” in free labor markets. The interventions of a System of egalitarian organizations restrict freedom of association and occupational choice. For public institutions to be legitimate to intervene and force all firms to adopt egalitarian structures, we do not only need to show that egalitarian structures can contribute to the real freedom of the least well-off. We must provide an argument proving that there is *no less intrusive alternative* to realize distributive justice. Otherwise, if less intrusive systems such as a Strong Welfare State Capitalism are sufficient to realize distributive justice, promoting egalitarian organizations is not legitimate.

¹²⁰ Rawls 2001: 72-75, 114; Murphy & Nagel 2002: 3-11; Scanlon 2013: 31

¹²¹ Rawls 1993: 291-294. Van Parijs (2003: 224-226) is in favor of such a mild priority. Cf. Chapter 1

¹²² Cordelli (2012: 154-155), Malleson (2014: 35-40) and Gonzalez (2015: 239) think it does. According to the first two, the simple fact that individuals are not entirely free to leave an organization is sufficient to justify egalitarian claims like the right to take part in important decisions (See also Moriarty 2005: 457-463). I disagree.

¹²³ Malleson (2014: 29-36) explains very well these limitations to workers’ freedom of exit.

¹²⁴ Rawls (2001: 72-79) claims that a political conception of justice needs to set aside any justification of inequalities that is based on individual responsibility or merit. See also: Scanlon 2013: 31. Cf. Chapter 1

¹²⁵ Rawls 1993: 292

Indeed, no matter how strong its fiscal policies may be, Welfare State Capitalism only restricts the purchasing power of rich people and leaves freedom of association and occupational choice intact for everyone¹²⁶. Following this argument, one could argue that a System of egalitarian organizations is more intrusive than Welfare State Capitalism:

1st argument: the formal freedom argument

- (1-) Public institutions should respect a presumption of formal freedom
 - (2-) A System of egalitarian organizations restricts formal freedom more than WSC.
 - (3-) **A: A Strong WSC is sufficient to realize all the requirements of justice.**
- Conclusion:* A Strong Welfare State Capitalism is the best system to realize justice.

This is a good liberal egalitarian argument against a System of egalitarian organizations. For example, Rawls explicitly rejects State Socialism on this ground. For him, by intervening too much in the organization of labor and investments, this system restricts *unnecessarily* freedom of association or occupational choice¹²⁷. One could also understand Van Parijs' argument in this way: instead of promoting any specific organization, public institutions should rather implement a universal basic income. This would leave individuals' formal freedom intact while raising their bargaining power inside the organizations they choose to join¹²⁸. Therefore, in cases in which *more intrusive* and the *less intrusive* policies are equally good at maximizing the real freedom of the least well-off, the less intrusive one is to be preferred. If so, shouldn't we prefer implementing a Strong Welfare State Capitalism?

Premises (1-) and (2-) can face objections, but I believe that refuting them is a dead end. Yet, even if we suppose that this argument is valid and that a System of egalitarian organizations does restrict individual freedom more heavily, the general argument for Welfare State Capitalism still needs Premise (3-) to be true: **A: A Strong Welfare State Capitalism is sufficient** to realize all the requirements of justice, including correcting all unjust inequalities created by inegalitarian organizations. Here is the real *weakness* of this first argument.

2nd argument: the efficiency argument

A 2nd argument found in the literature insists on the importance of economic efficiency. Of course, for liberal egalitarians, the economic efficiency of the system is not important *per se*. It is only important as long as it can help to realize the difference principle, i.e. as long as public institutions can redistribute the gains allowed by a more efficient system to maximize the situation of the least well-off¹²⁹. But justice may require policies reducing efficiency if it is necessary to maximize the situation of the least well-off.

Some economists, Hayek and Friedman most famously, argue that public intervention to regulate firms or to limit free markets almost always threatens economic efficiency by affecting the price system and economic incentives¹³⁰. Concerning economic organizations more specifically, we will see that Hansmann argues that the reason explaining why investor-owned enterprises (or capitalist firms) dominate the market is that they are more efficient because transaction costs are lower than in other organizations. In worker cooperatives, by

¹²⁶ Rawls 1993: 291-294; 2001: 138

¹²⁷ Rawls 2001: 138; Freeman 2007: 222

¹²⁸ Van Parijs 1995: 30. Piketty (2013: 835) proposes a global tax on capital.

¹²⁹ Freeman 2007: 222; Carens 1981: 1-22. For Van Parijs (1995: 220) efficiency gains allowed by capitalist markets would allow to finance the highest possible basic income. Many try to combine egalitarian principles with free market efficiency gains (Anderson 1999: 292; Philipps 2008: 439-440, 458-461; Hsieh 2009: 397).

¹³⁰ Hayek 1944 ; Friedman 1962 : 176, 190

contrast, transaction costs are higher because decision-making processes involve individuals with heterogeneous and often conflicting interests¹³¹. Therefore, a capitalist economy with few corporate regulations would be preferable for economic efficiency.

These arguments could face objections¹³². According to Lopez-Guerra and many others, given the state of our knowledge, it is difficult to know which of the capitalists or the democratic firms are the most efficient¹³³. However, co-ops face obstacles in the market such as access to capital¹³⁴. Moreover, even if individual cooperatives can be efficient, it does not entail that an *economic system* composed of co-ops would be efficient¹³⁵. Thus, one could argue that a System of egalitarian organizations is less efficient than Welfare State Capitalism:

2nd argument: the efficiency argument

- (1-) Public institutions need to maximize the situation of the least well off and thus need the socio-economic system to be as efficient as possible.
 - (2-) A System of egalitarian organizations is less efficient than WSC because public intervention to regulate organizations reduces efficiency.
 - (3-) **A: A Strong WSC is sufficient to realize all the requirements of justice.**
- Conclusion:* A Strong Welfare State Capitalism is the best system to realize justice.

This is a good liberal egalitarian argument against a System of egalitarian organizations. For example, Rawls, Carens, and Van Parijs are sympathetic to the idea that State Socialism or other more interventionist systems would be less efficient than market capitalism. This is why they lean toward accepting capitalist markets and prefer to use tax policies to redistribute the gains to everyone in order to maximize the situation of the least well-off¹³⁶. If so, shouldn't we prefer implementing a Strong Welfare State Capitalism?

This complex issue needs a deeper empirical analysis. I do not intend to provide here a satisfying comparative analysis of all socio-economic systems in terms of efficiency. For sure, premise (1-) and (2-) would require more discussion. I will investigate the issues they raise in Chapter 6. Yet, a full answer might not be required at this stage of the argument. Even if we suppose that Welfare State Capitalism is really more efficient, the general argument for Welfare State Capitalism still needs Premise (3-) to be true: **A: A Strong Welfare State Capitalism is sufficient to realize all the requirements of justice**, including correcting all unjust inequalities created by inequalitarian organizations and redistributing the efficiency gains allowed by a capitalist market. Again, here is the real *weakness* of the second argument.

Two arguments based on the same controversial assumption

These two arguments are the reasons why the arguments of O'Neill or Hacker were inconclusive. They think that promoting egalitarian organizations, on the one hand, and implementing other policies such as redistributive taxation, on the other hand, are all part of an "egalitarian toolkit" and assume that these policies are normatively equivalent. But they are not. A System of egalitarian organizations may be more intrusive and more threatening for economic efficiency than Welfare State Capitalism. An underlying assumption of their position is that eventual infringements on *formal freedom* of association and occupational

¹³¹ For nuanced analyses of firms' efficiency, see: Hansmann 1996: 119; Malleson 2014: 86

¹³² Stiglitz 2007: 224-238; Lipsey & Lancaster 1956; Heath 2009: 65-80; Malleson 2014: 51-86

¹³³ Lopez-Guerra 2008: 26. See also: Pérotin 2013: 34-47. I will discuss this in Chapter 6.

¹³⁴ This is an important problem for labor-managed firms. See: Dow 2003: 185; Malleson 2014: 51-86

¹³⁵ Lopez-Guerra 2008: 26

¹³⁶ Rawls 2001 : 138-140; Freeman 2007: 222; Carens 1981: 1-22; Van Parijs 1995: 220; Dow 2003: 24-27

choice for instance, or eventual reduction of economic production, are permitted because, in fact, what really matters is the distribution of the means for *effective* or *real* freedom to the least well-off (namely, social primary goods)¹³⁷.

But the general presumption of formal freedom, or against legal restrictions requires being careful with public interventions. Their relative intrusiveness is a normative factor to take into consideration. Moreover, public intervention in firms' structure can affect efficiency and thus affect the situation of the least well-off. Therefore, even if I agree with O'Neill's general purpose of promoting not only formal freedom but also real freedom, public institutions should still choose the *least intrusive way* to distribute real freedom. Some policies might better preserve the formal freedom of investors, entrepreneurs or workers while at the same time maximize the real freedom of the least well-off. As I said, in cases where a less intrusive and a more intrusive system are equally good at maximizing the effective freedom of the least well-off, the *least intrusive* system is to be preferred. In our case, this could mean that instead of promoting a System of egalitarian organizations by spending tax-payers money to actively foster profit-sharing property schemes or workplace democracy, public institutions would simply need to implement a stronger form of Welfare State Capitalism.

But the two arguments I just outlined have the same structure and therefore, share the same fatal weakness. As we have seen, there may be good reasons to accept Premises (1-) and (2-). However, the weakness of both arguments is that they depend on the validity of Premise (3-), which is a more controversial assumption:

The 1st and 2nd arguments share the same assumption A

- (1-) Public institutions should 1. respect a presumption of formal freedom / 2. foster efficiency.
 - (2-) A System of egalitarian organizations 1. restricts more formal freedom / 2. reduces efficiency compared to a Strong Welfare State Capitalism.
 - (3-) **A: A Strong WSC is sufficient to realize all the requirements of justice.**
- Conclusion:* A Strong Welfare State Capitalism is the best system to realize justice.

The weakness of both arguments is that they rely on a crucial assumption **A: A Strong Welfare State Capitalism is sufficient** to realize all the requirements of justice, which includes correcting all unjust outcomes created by inequalitarian organizations. This is already an interesting conclusion: public institutions should refrain from intervening in organizations and opt for Welfare State Capitalism only if this assumption **A** is true. If **A** is not true, public institutions can choose to implement another socio-economic system. They can choose a more intrusive system restricting formal freedom for everyone and reducing efficiency but that would be better at realizing the other requirements of justice, such as the difference principle.

Indeed, even if there is a presumption against legal restrictions, any intervention *necessary* to realize distributive justice is legitimate and even required by justice. There is no absolute priority of liberty over distributive goals¹³⁸. The same is true for efficiency. Rawls claims that "laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust"¹³⁹. Therefore, policies reducing the overall economic efficiency of the economic system may be justified if they are necessary to maximize the bundle of social primary goods attached to the social position of the least well-off.

¹³⁷ O'Neill (2014: 17-21) makes claim explicitly.

¹³⁸ Rawls 1993: 294-299

¹³⁹ Rawls 1971: 3

The appropriate strategy to argue for the promotion of egalitarian organizations consists in refuting this assumption **A**. It consists in demonstrating that $\neg A$: A Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize the requirements of justice because it always fails to correct all unjust outcomes produced by inequalitarian organizations. Therefore, if liberal egalitarians want to provide a compelling argument leading to the conclusion that public institutions need to promote egalitarian organizations, and if they want at the same time to avoid the objections raised against such intervention and in favor of Welfare State Capitalism, they need to follow this strategy and demonstrate $\neg A$.

This argumentative strategy has two fundamental characteristics. First, the promotion of egalitarian organizations can only be justified by *liberal*, non-perfectionist arguments. Therefore, they can only be justified on *instrumental* grounds, as a mean to realize a just distribution of all social primary goods. Second, the argument must not be based on *contingent* failures of other alternatives such as the current Welfare States, but on *necessary* failures of all forms of Welfare States, even the strongest versions. Therefore, the appropriate strategy consists in demonstrating that promoting egalitarian organizations is necessary since a Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize justice requirements because it fails to correct all unjust outcomes produced by inequalitarian organizations. In other words, promoting a System of egalitarian organizations is justified if and only if no other *less intrusive* socio-economic system is able to realize all the requirements of distributive justice.

Conclusion – New arguments are needed to get rid of inequalitarian organizations

In Chapter 4, I have underlined that liberal egalitarians need to evaluate which *system* best realizes justice. But in this debate, political philosophers have overlooked for too long the contribution of organizations to the creation of unjust inequalities. While some corporate structures such as worker cooperatives create few inequalities, many other such as capitalist firms create large inequalities of all social primary goods. This raises the following question: *Should public institutions promote egalitarian organizations or tolerate inequalitarian ones?*

The *results* are the following. I have argued that we should reframe the debate about which socio-economic system best meets the requirements of justice around the following alternative. A *System of egalitarian organizations* (SEO) requires public interventions to promote egalitarian organizations while *Strong Welfare State Capitalism* (WSC) avoids it, tolerates inequalitarian organizations, and implements alternative policies in order to meet the requirements of justice. This means that instead of crystallizing the debate about the just system around the alternative proposed by James Meade and John Rawls between Property-Owning Democracy (POD) and Welfare State Capitalism (WSC), we should wonder instead whether public institutions should promote egalitarian organizations or tolerate inequalitarian ones. Among all possible socio-economic systems, a System of egalitarian organizations and a Strong Welfare State Capitalism are the only ones respecting the first principle of justice and fair equality of opportunity. Therefore, I concluded that the debate will be settled by their respective capacity to realize the difference principle over time.

Then, I started to review the various arguments in favor of public intervention to promote egalitarian organizations. I rejected all the arguments belonging to the *moral and relational strategy* because they are not liberal. I argued that the *liberal egalitarian strategy* is the only appropriate strategy to argue for egalitarian organizations. However, I argued that this

strategy, as it is, is not conclusive because it does not necessarily lead to the conclusion that public institutions should promote egalitarian organizations. By contrast, there are good liberal arguments for public institutions to tolerate inegalitarian organizations. However, these two liberal arguments to tolerate inegalitarian organizations have a *shared weakness*:

- (1-) Public institutions should 1. respect a presumption of formal freedom / 2. foster efficiency.
 - (2-) A System of egalitarian organizations 1. restricts more formal freedom / 2. reduces efficiency compared to a Strong Welfare State Capitalism.
 - (3-) **A: A Strong WSC is sufficient to realize all the requirements of justice.**
- Conclusion: A Strong Welfare State Capitalism is the best system to realize justice.

The weakness of both arguments is that they rely on a controversial assumption **A**: A Strong Welfare State Capitalism *is sufficient* to realize all the requirements of justice by correcting all unjust outcomes created by inegalitarian organizations. Welfare State Capitalism is preferable if only if this is true. Therefore, if liberal egalitarians are to argue for public interventions to promote egalitarian organizations, the only appropriate strategy consists in refuting assumption **A**. It consists in demonstrating that $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize justice because it fails at correcting all the unjust outcomes produced by inegalitarian organizations. If so, promoting egalitarian organizations becomes necessary to realize justice.

This argumentative strategy has two fundamental characteristics. First, the promotion of egalitarian organizations can only be justified by *liberal*, non-perfectionist arguments. Therefore, they can only be justified on *instrumental* grounds, as a mean to realize a just distribution of all social primary goods. Second, the argument must not be based on *contingent* failures of other alternatives such as the current Welfare States, but on *necessary* failures of all forms of Welfare States, even the strongest versions. Therefore, I argued that the appropriate strategy consists in demonstrating that promoting egalitarian organizations is necessary since a Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize justice requirements because it fails to correct all unjust outcomes produced by inegalitarian organizations. In other words, promoting a System of egalitarian organizations is justified if and only if no other *less intrusive* socio-economic system is able to realize all the requirements of distributive justice. I haven't found a proper demonstration of it yet, but I think that producing such a demonstration is possible.

The *contribution* of this chapter consists in two main points. First, I have underlined why organizations should be the center of concern when it comes to evaluating which socio-economic system can best realize the requirements of justice. I have thus been able to provide a new framework helping us to compare and evaluate which socio-economic system best meets the requirements of distributive justice. Second, I evaluated the conditions under which liberal egalitarians should choose one system or the other. After the critical literature review conducted in Sections 2 and 3, it is clear that the only appropriate strategy for liberal egalitarian to argue for public intervention to promote egalitarian organizations consists in demonstrating $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize all the requirements of justice, because it always fails to correct all the unjust outcomes produced by inegalitarian organizations. Liberal egalitarians need new arguments to justify promoting egalitarian organizations and not tolerating inegalitarian ones.

What's next? In Chapter 5, I will provide two arguments justifying why public institutions should promote egalitarian firms by demonstrating $\neg\mathbf{A}$: Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize justice because it always fails to correct all the unjust outcomes produced by inegalitarian organizations.

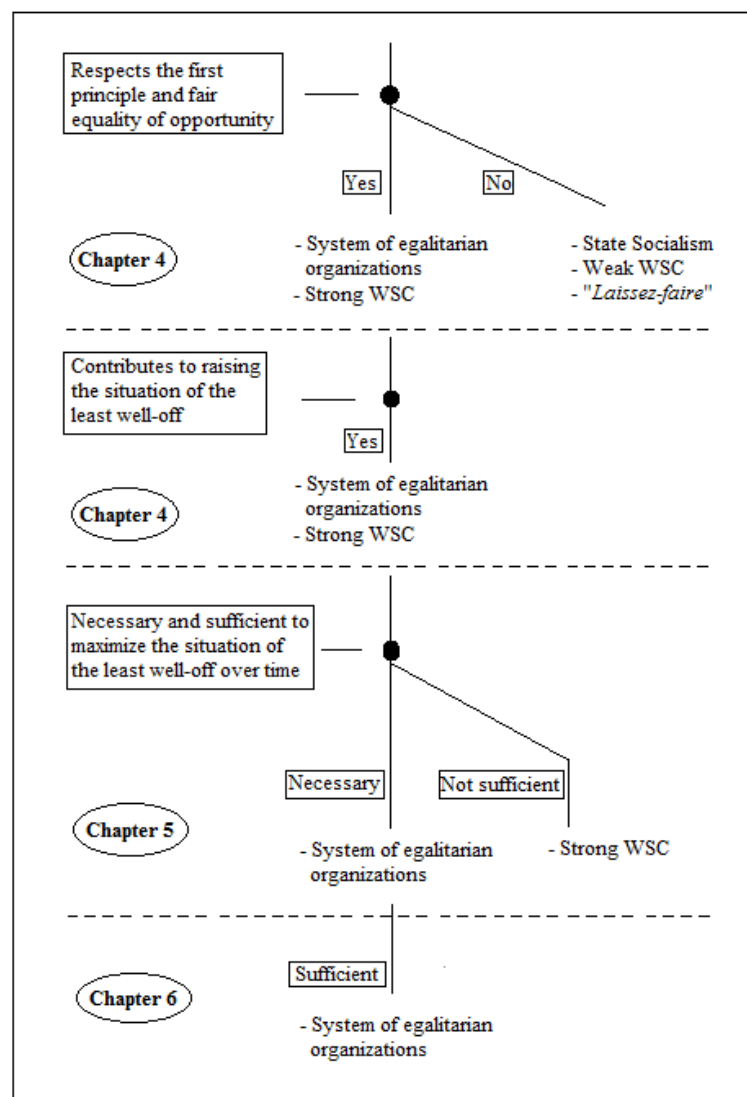
Let me summarize the progression of the argument in Chapters 4, 5 and 6.

In Chapter 4, I argue that State Socialism, Weak Welfare State Capitalism and “*Laissez-faire*” Capitalism do not respect the first principle and fair equality of opportunity. I also argue in Chapter 4 that both a System of egalitarian organizations and a Strong Welfare State Capitalism respect the first principle and fair equality of opportunity and both contribute to raising the situation of the least well-off. The choice between these two systems must, therefore, be made according to their respective capacity to maximize the situation of the least well-off. If a Strong Welfare State Capitalism is sufficient to realize all the requirements of justice, then a System of egalitarian organizations is not necessary and therefore public institutions are not legitimate to promote egalitarian organizations. However, if Strong Welfare State Capitalism is not sufficient to realize the requirements of justice, then promoting a System of egalitarian organizations becomes necessary to realize justice.

In Chapter 5, I provide two arguments demonstrating $\neg A$: Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize the requirements of justice, because it always fails to correct all the unjust outcomes produced by inequalitarian organizations. This is why it is *necessary* to promote egalitarian organizations.

In Chapter 6, I argue that promoting egalitarian organizations is *sufficient* to realize justice, at least as far as the difference principle is concerned. I also analyze one case study.

Progression of the argument



Chapter 5

A System of Egalitarian Organizations is Necessary to Realize Justice

Why is Welfare State Capitalism insufficient to realize justice?

Mill's idea of worker-managed firms is fully compatible with Property-Owning Democracy [...]. Should such firms be granted subsidies [...]? Would there be advantages from doing this that could be justified in terms of the political values expressed by justice as fairness [...]? For example, would worker-managed firms be more likely to encourage democratic political virtues needed for a constitutional regime to endure? I have no idea of the answers, but certainly, these questions call for careful examination. The long-run prospects of a just constitutional regime may depend on them.

John Rawls (2001: 176-179) – *Justice as fairness*

Introduction

Most liberal egalitarian conceptions of justice hold that public institutions should respect everyone's freedom to pursue their conception of the good and distribute the material means of real freedom¹. Rawls argues for a general presumption of formal freedom or against legal restrictions but public institutions are legitimate to intervene and impose legal restrictions whenever it is necessary to realize justice². Just institutions should respect two principles.

The *first principle* claims that “each person has the same inalienable claim to a fully adequate scheme of equal basic liberties”³ (for instance, freedom of expression, assembly, association...). But real freedom requires providing to everyone, as much as possible and impartially, a bundle of goods that allow them to realize their plans in life. According to Rawls, distributive justice consists in defining social positions corresponding to burdens of cooperation and attaching to them a bundle of goods⁴. The *second principle* claims that: “social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*”⁵. As we will see, these two principles are supplemented by general requirements of stability⁶.

¹ Rawls 2001: 39-50. Van Parijs (1991: 225) proposes an interpretation focusing on real freedom.

² Rawls 1993: 291-292. Cf. Chapter 1

³ Rawls 2001: 42. Cf. Chapter 1

⁴ Rawls 1993: 283-284, 324-331; 2001: 50-51, 63; Freeman 2007: 109, 125; Van Parijs, in Freeman 2003: 214

⁵ Rawls 1971: 83. Cf. Chapter 2

⁶ We will see that Rawls (2001: 184-185) insist on the importance of stability.

Even if there is a general presumption of formal freedom, or against any legal restrictions failing the test of public justification, I argued that public institutions are legitimate to intervene and regulate any aspect of organizations' structures or individuals' behavior. The only requirement is that the intervention must be *necessary* to realize justice, meaning that if two socio-economic systems or sets of policies are equally good at realizing distributive justice, public institutions should opt for the *least intrusive one*⁷. Therefore, one can wonder which interventions are necessary to realize justice. In Chapter 4, I asked whether public institutions should promote a System of egalitarian organizations or a Strong Welfare State Capitalism, tolerating inegalitarian organizations and realizing justice by other means.

In Chapter 5, the goal is to answer this question. I already argued before that the debate between these two systems will be settled by their respective capacity to realize the difference principle over time⁸. I also exposed two arguments in favor of tolerating inegalitarian organizations and choosing Welfare State Capitalism:

- (1-) Public institutions should 1. respect a presumption of formal freedom / 2. foster efficiency.
 - (2-) A System of egalitarian organizations 1. restricts more formal freedom / 2. reduces efficiency compared to a Strong Welfare State Capitalism.
 - (3-) **A:** A Strong WSC is sufficient to realize all the requirements of justice.
- Conclusion: A Strong Welfare State Capitalism is the best system to realize justice.

We have good reasons to think that (1-) and (2-) are valid. Therefore, both arguments rely on assumption **A:** A Strong Welfare State Capitalism is *sufficient* to realize the requirements of justice by correcting all unjust outcomes created by inegalitarian organizations. I will now demonstrate $\neg A$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it always fails to correct all unjust outcomes produced by inegalitarian organizations in a stable way. If so, it becomes *necessary* for public institutions to promote egalitarian organizations in order to realize justice. Therefore, the question in this chapter is: *Why is Welfare State Capitalism insufficient to realize justice?*

The two sections can be seen as two “chapters” proposing two independent arguments to demonstrate $\neg A$. At each step, I support these arguments with empirical evidence.

In Section 1, I develop the “*distributive argument*” justifying that *more* organizations should be egalitarian. This argument is based on the requirement that public institutions should realize a just distribution of *all* social primary goods. To do so, they need to give the least well-off access to a social position attached to a high amount of each social primary good. But if redistribution can succeed in redistributing income and capital, I will show that it is not the case for other primary goods such as protection from domination, self-governing capacities, and self-respect. Therefore, public institutions should promote egalitarian organizations.

In Section 2, I develop the “*stability argument*” justifying that *all* organizations should be egalitarian. This argument is based on the requirement that the public institutions in charge of realizing justice should be stable over time. They need to foster voluntary adhesion by all citizens. But I will show that correcting mechanisms and inegalitarian organizations always threaten the stability of just institutions because they create institutional complexity, problematic incentives and fail to provide the conditions to exercise our “sense of justice”. This is why public institutions should promote egalitarian organizations and get rid of *all* inegalitarian organizations. This leaves for the Chapter 6 the task of evaluating which economic organizations qualify as egalitarian organizations.

⁷ Rawls 2001: 10, 52-56; Schouten 2014: 257-260. Cf. Chapter 1

⁸ O'Neill, in O'Neill & Williamson 2012a: 81-93. Cf. Chapter 4

1 – The “*distributive argument*” to justify that *more* organizations should be egalitarian

Justice requires public institutions to realize a just distribution all social primary goods between social positions. These goods are the social bases of purchasing power, protection from domination, self-governing capacities, and self-respect⁹. I assume for now that there are egalitarian organizations able to distribute all these goods more equally. Therefore, tolerating inegalitarian organizations is acceptable if and only if **A**: A Strong Welfare State Capitalism is *sufficient* to realize all the requirements of justice by correcting all unjust outcomes created by inegalitarian organizations. The problem with this assumption is the following. I argued that maximizing the situation of the least well-off most likely required giving him access, as much as possible, to a social position combining a high amount of each primary good¹⁰. In this first section, given this requirement, I will argue that that the assumption **A** is not true:

¬**A**: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it fails at realizing a just distribution of *all* primary goods.

There are two main ways for the Welfare State to fail to realize the principles of distributive justice. First, (a.) the *redistributive policies* could *themselves* create distributive injustices in terms of other goods. I will show that it is the case for some redistributive policies but not for all of them. Therefore, there are ways for the Welfare State to avoid this first problem. Second, (b.) *inegalitarian organizations* could create distributive injustices that the redistributive mechanisms of the Welfare State necessarily fail to correct. The distributive argument I will develop in this section relies on (b.). It goes as follow:

(1-) Public institutions should realize a just distribution of *all* primary goods by securing to the least well-off access to a position combining a high amount of each primary good.

(2-) But (b.) inegalitarian organizations create distributive injustices for some goods that redistributive mechanisms necessarily fail to correct.

Conclusion: ¬**A**: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it fails to realize a just distribution of all primary goods.

I argue that it is necessary for public institutions to promote egalitarian organizations because Welfare State Capitalism is insufficient to realize a just distribution of all primary goods. Welfare State Capitalism could realize a just distribution of purchasing power through tax policies targeting income and capital, at least in ideal circumstances. Therefore, rejecting inegalitarian organizations cannot be based on the distribution of purchasing power. However, Welfare State Capitalism cannot correct the inequalities of protection from domination, self-governing capacities and self-respect created by inegalitarian organizations. It is, therefore, necessary for public institutions to make sure that *more* organizations are egalitarian, at least until everyone in the least well-off social positions gets access to an egalitarian organization.

Now, let me specify the scope and limits of the distributive argument. *First*, the distributive argument focuses on the distribution of all social primary goods. Except for purchasing power, the distributive argument is valid for all the other social primary goods. Even if the failure of Welfare State Capitalism to realize a just distribution of one good would be enough to justify the promotion of egalitarian organizations, making the argument for all the other social primary goods is important. To begin, it is important to determine which forms of egalitarian organizations are preferable. For instance, large democratic firms might look like

⁹ Rawls 2001: 139-140. Cf. Chapter 2

¹⁰ The reason for that is that all primary goods have diminishing marginal returns. Cf. Chapter 3

democratic organizations but they might rely too much on large-scale representative democratic structures, thus failing to realize a just distribution of protection from domination or not involving workers sufficiently in decision-making to help them to develop self-governing capacities. Then, making the argument for all goods is also important because the organizations coordinating production are not the only source of inequalities. Organizations managing risks, consumption, and housing create specific forms of inequalities. These organizations do not necessarily create inequalities in purchasing power or protection from domination but might create inequalities of other social primary goods. In order to argue for the promotion of more egalitarian organizations in *all sectors* of the economy, it is useful to demonstrate that the distributive argument is valid for all social primary goods¹¹.

Second, the distributive argument is limited because it only allows justifying that *more* organizations should be egalitarian. But it justifies neither that *all* organizations should become more egalitarian nor that public institutions should get rid of all inegalitarian organizations. Indeed, if maximizing the situation of the least well-off most likely requires giving him access, as much as possible, to a social position combining a high amount of each primary good, and if egalitarian organizations are necessary to provide the least well-off with such as social position, this only justifies to promote egalitarian organizations until all the people occupying the least well-off social positions get access to a social position in an egalitarian organization. However, organizations employing only more well-off people could still be inegalitarian without threatening the situation of the least well-off. Therefore, the distributive argument does require public institutions to promote egalitarian organizations but leaves open the possibility to continue tolerating some inegalitarian organizations.

The distributive argument I provide here is original because previous versions of this argument did not succeed in justifying why it is *necessary* for public institutions to promote egalitarian organizations. Many authors, liberal egalitarians or not, have proposed arguments according to which promoting egalitarian organizations such as worker cooperatives *helps* to realize a just distribution of social primary goods. They are often influenced by the intuitions of republican, relational or recognition theories. This is the case of Dahl, Lovett, Hsieh, Malleson, Young, Fraser, or Arnold for instance¹². But my argument adds three elements.

The first way in which my version of the distributive argument is original is the following. In Chapters 2 and 4, I argued that some versions of this argument could not fit within a liberal framework. This is the case of *moral* or *relational* argumentative strategies for instance. Public institutions should distribute the polyvalent means to realize any reasonable conception of the good and develop self-respect but they should not judge for others which social relationships are good or bad¹³. Instead, a non-perfectionist and workable approach needs to focus on the “social bases” of protection from domination, self-governing capacities and self-respect (including the social bases of meaningful relationships for instance)¹⁴. The distribution of these goods should rely on some *external* institutional conditions easy to identify, to measure and to use by public authorities. But I will show here why, nevertheless, a distributive approach is not necessarily blind to relational inequalities¹⁵.

¹¹ About the variety of organizations with the potential of creating inequalities, see: Malleson 2014: 44, 137; Hansmann 1996: 53, 66, 89; Schweickart, in O'Neill & Williamson 2012a: 201; Lovett 2010: 196

¹² Dahl 1985; Young 2006; Lovett 2010; Malleson 2014; Fraser 2005 : 26-43; Young 1990: 222-225; 2006 : 92-94; O'Neill, in O'Neill & Williamson 2012a: 87-93; Néron 2015: 93-107; Arnold 2012: 97(among others)

¹³ Young (1990: 24-25) makes the problematic claim that public institutions should determine relationships.

¹⁴ Arnold 2012: 97. Cf. Chapters 2 and 4

¹⁵ Rawls 1971: 90-95; 1993: 178-190; 2001: 57-61; Pogge 2002: 208-212. Cf. Chapter 2, Section 3

The second way in which my version of the distributive argument is original is the following. Even if liberal egalitarian versions of the argument underline that real freedom depends on the distribution a list of several social primary goods including the social bases of purchasing power, protection from domination, self-governing capacities, and self-respect, they often fail to demonstrate why institutions need to distribute *all* primary goods and fail to solve the indexing problem arising with the possibility of substituting one good by another¹⁶. For instance, Arnold assumes that distributing a mix of all social primary goods is the best way to maximize the situation of the least well-off, but he does not demonstrate why and he does not provide us with any criterion to evaluate various mixes. By contrast, I proposed a solution to this problem in Chapter 3. Maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each primary good¹⁷. This was missing in previous versions of this argument.

The third way in which my version of the distributive argument is original is the following. I argued in Chapter 1 that public policies aiming at realizing justice should be the least intrusive as possible, meaning that they should impose as little restriction on individuals' formal freedom as possible¹⁸. Therefore, I argued in Chapter 4 that the requirement to realize a just distribution of the social bases of protection from domination, self-governing capacities, and self-respect does not *necessarily* justifies reforming the structure of organizations. If less intrusive policies succeed in maximizing the bundle of social primary goods of the least well-off, public institutions are not legitimate to use more intrusive policies such as actively promoting egalitarian organizations. Authors such as O'Neill, Malleson, Arnold or Fraser mainly argue that contemporary weak Welfare States are insufficient to realize a just distribution of all primary goods. But this may only justify strengthening the Welfare State while still focusing on less intrusive policies such as implementing stronger income and capital tax schemes, providing more bargaining power to workers by funding a basic income or by fostering unions, and implementing stronger education programs¹⁹. By contrast, I will argue that public policies such as funding a basic income, fostering unions or investing in education fail to give the least well-off, as much as possible, access to a social position attached to a high amount of each primary good. This is why it becomes necessary (and thus legitimate) for public institutions to actively promote egalitarian organizations.

Here is a road map of Section 1, developing the distributive argument.

In Section 1.1, I argue that Welfare State Capitalism could, at least in ideal circumstances, succeed in realizing a just distribution of purchasing power.

In Section 1.2, I argue that inegalitarian organizations create an unjust distribution of the social bases of protection from domination for which WSC is unable to compensate.

In Section 1.3, I argue that inegalitarian organizations create an unjust distribution of the social bases of self-governing capacities for which WSC is unable to compensate.

In Section 1.4, I argue that inegalitarian organizations create an unjust distribution of the social bases of self-respect for which WSC is unable to compensate.

I conclude that the distributive argument justifies that *more* organizations should be egalitarian but does not justify that *all* organizations should be egalitarian.

¹⁶ O'Neill (2008) and Arnold (2012) face this problem. Lovett (2010: 142-144) acknowledges the importance of other goods like income but simply presupposes the paramount importance of non-domination.

¹⁷ Arnold 2013: 394. For a liberal egalitarian solution to the indexing problem, see: Chapter 3

¹⁸ On the general presumption of formal freedom, see: Chapter 1

¹⁹ For instance, see: Fraser 2005: 94-97. Cf. Chapter 4

1.1 – WSC is able to realize a just distribution of purchasing power

Egalitarian organizations, by definition, distribute purchasing power more equally inside them. By contrast, inequalitarian organizations create inequalities of income and financial capital, meaning inequalities of the *social bases of purchasing power*. Because liberal egalitarians cannot accept intrinsic arguments for egalitarian organizations, inequalitarian organizations should be rejected only if other distributive mechanisms do not work. But in the specific case of income and capital, redistributive tax systems work. They can correct inequalities and thus help to maximize the purchasing power to the least well-off. I will show that (a.), redistributive mechanisms do not necessarily create an unfair distribution of other primary goods and (b.) that unjust inequalities of purchasing power can, at least in ideal circumstances, be corrected by redistribution. Therefore, if the distribution of *purchasing power* was all that matters, there would be no reason to get rid of inequalitarian organizations.

Tax systems can redistribute income and capital

Public institutions are able to correct unjust distributions of income and capital through tax policies. For instance, they can implement a progressive income tax, on both work and capital income, and even tax capital itself and block its intergenerational transmission²⁰. Of course, contemporary Welfare States are too weak and do not redistribute enough. This is one reason why inequalities of income and capital are deepening²¹. There are many reasons for that, including the fact that the power of public institutions to tax and the power of unions to engage in collective bargaining are declining in a globalized work in which capital and firms are more mobile²². Yet, theoretically at least, these problems can be mitigated²³.

I have underlined two main ways to realize a Property-Owning Democracy, in which income, financial capital, and human capital are more fairly distributed. One of these ways involves aggressive taxation schemes redistributing income and financial capital²⁴. One could think of a universal basic income or a world tax on capital for instance²⁵. Tax policies would be able to correct income and capital inequalities created by inequalitarian organizations and would thus be able to realize the difference principle for the distribution of the social bases of purchasing power: they would be able to maximize purchasing power accessible to the least well-off. The OECD underlines how important taxes and transfers can be:

Public cash transfers, as well as income taxes and social security contributions, played a major role in all OECD countries in reducing market-income inequality. Together, they were estimated to reduce inequality among the working-age population (measured by the Gini coefficient) by an average of about one-quarter across OECD countries. This redistributive effect was larger in the Nordic countries, Belgium and Germany, but well below average in Chile, Iceland, Korea, Switzerland and the United States²⁶.

Table 9 shows how successful redistribution can be in reducing income inequalities, by showing inequalities of pre-tax market income and post-tax disposable income:

²⁰ Rawls 2001: 135-140; O'Neill, in O'Neill & Williamson 2012a: 81-93

²¹ Rawls 2001: 135-140; Atkinson, Piketty & Saez 2011: 6; Landais, Piketty & Saez 2011: 21; OCDE 2011: 22; Piketty 2013: 196, 385; Atkinson 2014: 110

²² Avi-Yonah 2001; 2011; Murphy 2012: 17-20; Hacker & Pierson 2010: 41-70

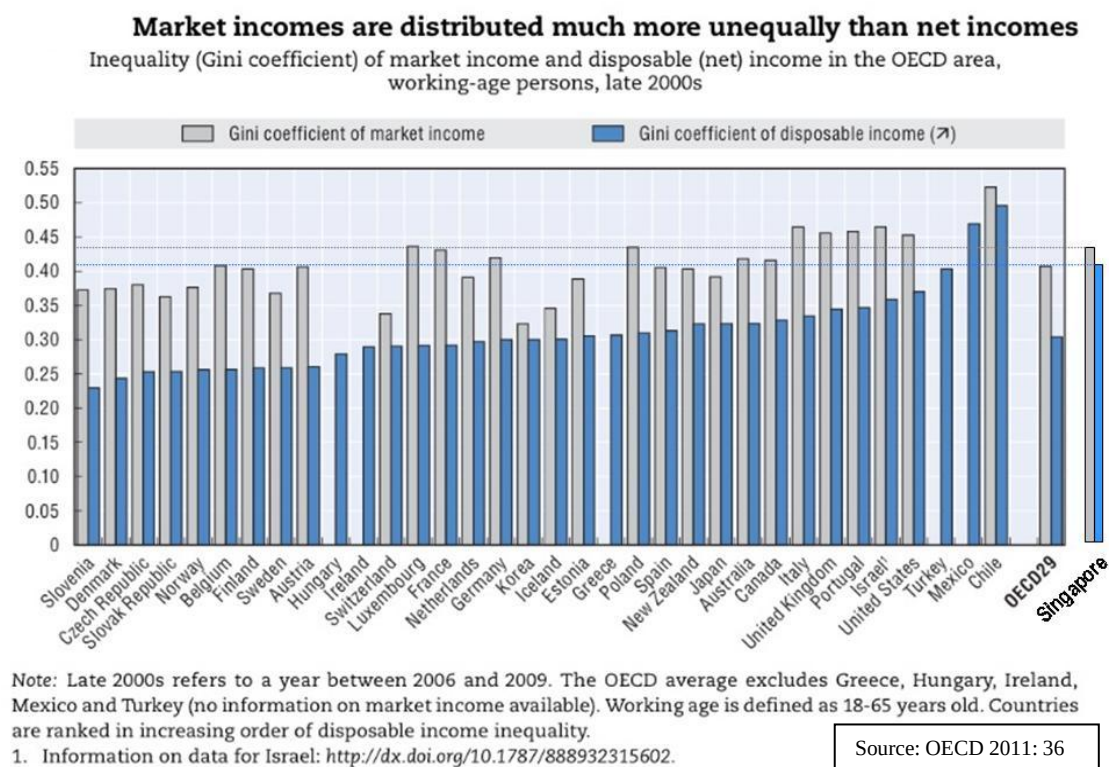
²³ Murphy 2012: 33-41; Piketty 2013: 751-938; Dietsch 2015: 64-123

²⁴ Rawls 2001: 134-140. Freeman 2007: 219, 220; O'Neill, in O'Neill & Williamson 2012a: 79

²⁵ Van Parijs 1995: 30; Piketty 2013: 835. Fleurbaey (2006: 69) also underlines the importance of redistribution.

²⁶ OCDE 2011: 36. I reproduce here a figure from the OECD (2011) report on inequalities. It is based on Gini Coefficient data across countries. The Gini is an index often used to evaluate income inequalities. Of course, as I said, the Gini coefficient is not the appropriate measure for distributive inequalities in Rawlsian framework.

Table 9



Piketty underlines that most countries have experienced important variations in the part of the national income going to work or capital during the 20th Century. He argues that historical variations in the part of national income captured by the rich can explain the increase or reduction of inequalities. Notably, if the rate of growth is inferior to the rate of return on capital, a higher share of the national income goes to capital owners instead of workers. In a society with capital inequalities at least, this increases income and capital inequalities.

Piketty has collected a lot of data about historical evolutions in the share of total national income (before taxes) captured by the wealthiest individuals in various countries. Table 9 illustrates the case of the top 0.1% in the United States of America for instance. Top income shares of national income (and therefore inequalities of income and capital) have dropped between 1940 and 1980 (roughly). Many factors have driven up the rate of growth such as population growth. But the return on capital was also lower during these years. One reason for this was the important marginal tax rates on higher income tiers prevailing in the US (and other countries) during this period. Taxing top income tiers does not only help to *redistribute* income. It also affects pre-tax income because it creates disincentives for people to ask for higher income. Thus, high marginal tax rates on higher income tiers allow for a larger share of national income to be distributed to lower income tiers²⁷. Yet, the OECD (and Piketty, see Table 10), as well as many others, note that inequalities have begun rising again recently:

There was a rise in the share of top-income recipients in total gross income in the three decades from 1980 to 2010 in all countries, with considerable variation from country to country. It was most marked in the United States: prior to the onset of the financial and economic crisis in 2008, the share of the richest 1% in all income reached close to 20%²⁸.

²⁷ Piketty 2013: 37-61. The evolution is similar in Europe but for slightly different reasons. About the reasons explaining the recent rise of income and capital inequalities, see also: Atkinson 2015

²⁸ OCDE 2011: 38. It is also the case in a number of other English-speaking countries.

Table 10

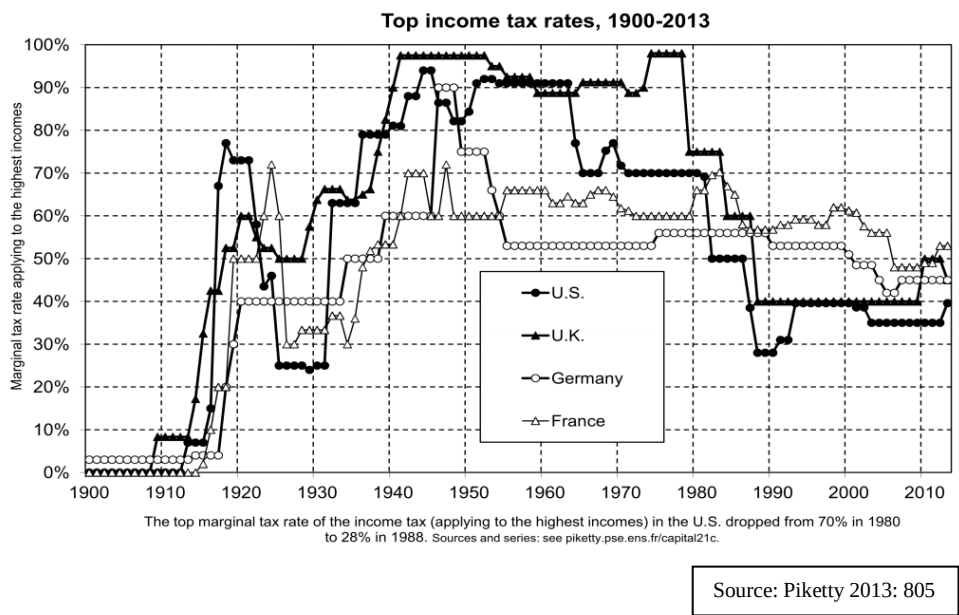


Piketty explains the recent rise of inequalities not only by the fact that growth rates are lower today but also by the fact that marginal tax rates are much lower as well:

top income tax rates on upper-income earners have declined significantly since the 1970s in many OECD countries, again particularly in English-speaking ones. For example, top marginal income tax rates in the United States or the United Kingdom were above 70% in the 1970s before the Reagan and Thatcher revolutions drastically cut them by 40 percentage points within a decade²⁹.

Table 11 illustrates top income tax rates in four countries. The correlation is very clear:

Table 11



²⁹ Piketty, Saez & Stantcheva 2011

The failures of WSC to redistribute income and capital can be mitigated

i. *Tax competition*: According to many experts in the field, one of the major problems faced by the Welfare State today is international tax competition. Tax competition can be understood as including “extreme” forms of tax competition performed by tax havens, which involves bank secrecy and lead to *illegal tax evasion*. But it also includes more common practices such as states reducing tax rates on capital gains and corporate profits in order to attract direct foreign investments, and corporations using sophisticated techniques to shift their profits from states with high tax rates on corporate profits to the ones with low tax rates. This leads to *legal tax optimization* and *tax avoidance*. The situation is very serious and is one of the main causes of the recent fiscal crisis of Welfare States all around the world. States compete through a race-to-the-bottom of tax rates on capital in order to attract more mobile economic factors (such as individual capital and direct foreign investments). This competition got stronger since the 1980s and has provoked large tax revenue losses for all states since then³⁰. Even if we consider only the most extreme forms of tax evasion and avoidance, the Tax Justice Network makes the following evaluation:

The scale of capital flight to the offshore economy is immense. In July 2012 TJN published research findings showing that not less than US\$21 trillion hidden by the world’s wealthiest people in the world’s tax havens. The figure may be as high as US\$32 trillion and, importantly, this estimate does not include the vast amount of wealth held in the form of real estate, superyachts, works of art and even racehorses that is “owned” by secretive offshore companies, trusts and foundations... If the income from this wealth was charged to tax in the countries where those rich individuals were resident or derived their wealth, the additional tax revenue available to fund public services and investment around the world would range between US\$190-280 billion annually. Importantly, this estimate of revenue loss does not include tax losses due to avoidance of inheritance or wealth taxes, taxes on capital gains or stamp duties on real estate sales. Nor do these estimates include tax avoidance by transnational corporations or the lowering of revenue income caused by tax competition³¹.

Tax competition has a double impact on inequalities: it increases inequalities between states and also inequalities between people inside states³². First, rich countries lose less of their tax base than poor countries because they have more efficient administrations, better able to protect their tax base. They also already have good infrastructures, an educated population and so on. Therefore, they can attract investments even if tax rates remain comparatively high. By contrast, poor countries are ill-equipped to fight tax evasion and avoidance and they still need to build infrastructure and to finance education. They are thus far more affected by tax competition. Second, in all countries, tax competition forces states to redirect the tax burden from mobile factors such as capital and investments to less mobile factors such as work and consumption. Therefore, tax systems become more regressive which increases inequalities inside states³³. In general, tax competition deprives states from tax revenues and thus limits the capacity of populations to choose which social system they want to implement. Recently, most countries have been forced to cut the funding of social programs³⁴. Regulating tax competition is ultimately a matter of real sovereignty for populations of the world³⁵.

Tax competition is one reason why OECD experts underline that “redistribution strategies based on government transfers and taxes alone would be neither effective nor financially

³⁰ Murphy & al. 2012: 1-21; Dietsch 2015: 3-5, 15-21, 31-62

³¹ Murphy & al. 2012: 3

³² Avi-Yonah 2000: 1596-1598; Murphy & al. 2012: 1-21; Dietsch & Ferretti 2010 : 67

³³ Dietsch & Ferretti 2010 : 67; Landais, Piketty & Saez 2011: 48-55; Murphy & al. 2012: 1-21

³⁴ OCDE 1998; Dietsch, Ferretti 2010 : 67; Landais, Piketty & Saez 2011: 48-55; Murphy & al. 2012: 1-16

³⁵ Dietsch 2015: 31-35, 167-187

sustainable” because they may create problematic incentives leading to tax avoidance for instance, and because most states “operate under a reduced fiscal space”³⁶.

Temporarily, these non-ideal circumstances could constitute a good reason to promote alternative policies reducing income inequalities such as promoting egalitarian organizations. However, such an alternative is more intrusive than trying to create global tax treaties fostering international fiscal cooperation and information exchanges which would get us out of these non-ideal circumstances. Therefore, the latter is a better solution. This would restore the capacity of public institutions to effectively tax income and capital³⁷. Peter Dietsch proposes the creation of an International Tax Organization in order to foster fiscal cooperation across countries. He argues that this would help to solve many problems raised by international tax competition³⁸. If so, Strong Welfare State Capitalism and its redistributive tax system would still be preferable, as far as income and capital inequalities are concerned, because it is less intrusive than public intervention to promote egalitarian organizations.

ii. Profit maximization: According to Cohen, any capitalist society is problematic because, when it comes to deciding what to do with productivity gains, capitalist institutions have a bias in favor of increasing production (and consumption) or firing workers, in order to maximize profits and transfer a larger share of the national product to wealthy capital owners. By contrast, state socialism or systems involving more egalitarian organizations, such as worker cooperatives, tend to use productivity gains to raise wages or to reduce working hours. But, once again, this argument is only valid in non-ideal circumstances. In fact, if effective taxation of income and capital are implemented, say, to fund a universal basic income, the productivity gains could also serve to provide workers with more income or more power to negotiate better working conditions³⁹. Therefore, this criticism of capitalist institutions does not necessarily lead to preferring state socialism (in Cohen’s case) or a System of egalitarian organizations (in my case) over strong versions of Welfare State Capitalism.

iii. Side effects: Another objection to Welfare State Capitalism consists in saying that the ones receiving social benefits are vulnerable some side effects of redistribution. For instance, if benefits are temporary and conditional to the fact that people are looking for work, public institutions will implement surveillance and means-testing. This might be very intrusive for people’s private life and could result in a reduction in the fair value of some basic liberties. Moreover, in societies with a strong work ethics, social benefits might create a stigma for the least well-off if they are described as lazy parasites. This could have side effects on the just distribution of the social bases of self-respect. But again, this is only the case if social benefits programs are conditional and involve means-testing. Other redistributive systems can avoid these undesirable side effects. For instance, an unconditional basic income has many advantages such as preventing the poverty trap, abolishing means-testing and making no discrimination between workers and non-workers (because everybody gets it, even the rich). If such a system was implemented, the side effects of redistribution would disappear⁴⁰.

We can conclude that for purchasing power, the failures of redistributive tax systems can be mitigated. If purchasing power was all that matters, there would be no reason to get rid of inegalitarian organizations. But purchasing power is not the only primary good that matters.

³⁶ OECD 2011: 40-41

³⁷ Avi-Yonah 2000; Murphy & al. 2012: 33-42 ; Piketty 2013: 751-938

³⁸ Dietsch 2015: 64-123. In 2015, 62 countries including the largest economies of the world have reached an agreement to fight against tax evasion. This is certainly one step in the right direction.

³⁹ Van Parijs 1995: 196

⁴⁰ Van Parijs 1995: 95, 120, 259; Schemmel 2015: 397-401

1.2 – Why is WSC insufficient to realize a just distribution of protection from domination?

A first interpretation of Rawls' "powers and prerogatives of offices and positions of authority and responsibility" is based on republican conceptions of power and domination. I argued that public institutions should equalize the distribution of power in order to provide the least well-off with a position attached to a high amount of social bases of protection from domination:

The social bases of protection from domination: The various social conditions and all-purpose means generally necessary to secure to citizens some control over the decisions affecting their life and to protect them from arbitrary interference⁴¹.

Of course, many authors such as Rawls, O'Neill, and Stiglitz underline how money can influence politics and why income and wealth inequalities can undermine the first principle and the fair value of political liberties⁴². Yet, as O'Neill underlines, there are ways to redistribute income and wealth so that inequalities of political power would become insignificant. There are also ways to isolate politics from the influence of money such as blocking private funding of political parties or regulating lobbying. Therefore, as I already underlined, the fair value of political liberties is not at stake here⁴³. What matters here is the distribution of the social bases of protection from domination to the least well-off.

Egalitarian organizations, by definition, distribute power more equally, which helps to provide the least well-off with the social bases of protection from domination. By contrast, inegalitarian organizations create inequalities of power and thus inequalities of protection from domination. Yet, inegalitarian organizations should be rejected only if compensating mechanisms do not work. Many authors, such as O'Neill, think that they do not work:

Bearing in mind [the various] ways in which inequality can be a great evil can help to make sense of the reasons why the redistributive functions of WSC cannot be adequate to rectify the harms of an inegalitarian society. For, while inequalities of income and wealth can straightforwardly be rectified through a process of *ex post* redistribution through transfer payments (as in a capitalist welfare state), matters become more complex and troublesome if we consider the kinds of social inequality that may generate status-harms (thereby undermining the self-respect of "low status" individuals), or which may lead to unacceptable forms of power or domination. These kinds of social inequality are far less likely to be remediable by means of the *ex post* redistribution of income and wealth⁴⁴.

Basically, the argument is the following. Welfare State Capitalism and more precisely the inegalitarian organizations it tolerates create inequalities of power and thus inequalities of protection from domination. While inequalities of income can be rectified by redistribution, inequalities of protection from domination are not entirely remediable. Is this true?

WSC fails to secure a high amount of protection from domination to the least well-off

We need to demonstrate $\neg A$: a Strong Welfare State Capitalism, *even its strongest version*, necessarily fails at realizing a just distribution of all primary goods. In this specific case, we need to demonstrate that a Strong Welfare State Capitalism fails to provide to the least well-off with a high amount of social bases of protection from domination.

⁴¹ Lovett 2010: 75-78

⁴² Rawls 2001: 137-138; O'Neill, in O'Neill & Williamson 2012a: 81-84; Stiglitz 2012: 181-212

⁴³ O'Neill (in O'Neill & Williamson 2012a: 83) thinks that the fair value of political liberties and fair equality of opportunity can be secured by a Strong Welfare State Capitalism, limiting the influence of money into politics and blocking intergenerational transmission of capital, but without necessarily promoting economic democracy.

⁴⁴ O'Neill 2009: 383. Arnold (2012: 104) has the same intuition.

To demonstrate why the promotion of worker cooperatives or democratic workplaces is necessary to secure a high amount of protection from domination to the least well-off, some propose arguments demonstrating why less intrusive policies, such as funding a basic income or supporting unions, fail to do so. Among the three main arguments found in the literature, I will argue that the third one seems to be the strongest.

i. Freedom of exit: Gonzalez-Ricoy argues that having more freedom of exit is insufficient to provide the least well-off with a high amount of protection from domination.

First, people value their work for other reasons than income (which could be compensated). When someone loses his job because of management decisions, he often also loses a social network, friends, and habits. Finding a new job, often a new place to live, and developing new skills also involve costs. Moreover, job alternatives may be as despotic, unregulated, and arbitrary as their current job. Therefore, even if more freedom of exit can be secured by a basic income, people might not *want* to exit and being forced to exit would still constitute an arbitrary interference with workers decisions. Second, perfect freedom of exit does not exist. As Shapiro and Stiglitz argue, there is always involuntary unemployment: in perfect markets, because employers often pay workers above their marginal productivity in order to increase their power over them (using the risk of unemployment as a worker discipline device), and in imperfect markets, because of market failures⁴⁵. Gonzalez-Ricoy concludes that “costless exit is neither possible nor desirable in either perfect or imperfect labor markets”⁴⁶. For Gonzalez-Ricoy: “it is thus mistaken to say, as the strong version of the exit rights argument does, that employees can use the right to quit as a credible threat against arbitrary interference”⁴⁷.

However, there are two limits to this argument. To begin, on the long run, a basic income has dynamic effects and gives workers enough bargaining power to transform the landscape of work opportunities⁴⁸. Moreover, even if exit freedom remains limited, promoting egalitarian organizations may be unnecessary if other mechanisms can further protect workers from domination, such as litigation and unions. Therefore, the lack of freedom of exit in current organizations is not *per se* a justification for regulating the structure of firms. If there are less intrusive ways to secure freedom of exit and bargaining power and secure that over time, workers are protected from domination, there is no need to transform firms.

ii. Collective bargaining: Another argument points out that mechanisms such as *litigations* and *unions* are also insufficient to maximize the protection from domination enjoyed by the least well-off. Even if many authors rightly suggest that they help to protect workers⁴⁹, there are many reasons to believe that they are insufficient to protect them from domination.

First, litigations are insufficient to protect workers from domination. For instance, the law protects the freedom of expression of workers and unions can help them to defend their rights⁵⁰. However, as Anderson argues, protecting workers from domination requires impeding managers to use their power to silence workers. This does not only rely on the formal recognition of freedom of expression by the law, but also on the material, institutional and cognitive conditions to avoid self-censorship by workers⁵¹. Gonzalez-Ricoy adds that litigations before courts are also often costly: “reliance on legal means to protect workers’

⁴⁵ Shapiro & Stiglitz 1984: 433-444

⁴⁶ Gonzalez-Ricoy 2014: 253

⁴⁷ Gonzalez-Ricoy 2014: 240

⁴⁸ Van Parijs 1995: 222; Lovett 2010: 196-198; Malleson 2014: 42, 49

⁴⁹ Hacker 2011; O’Neill & Williamson 2012b

⁵⁰ Gilson & Lambinet (2012) analyze the case in Belgium very well. It is similar in all liberal democracies.

⁵¹ Anderson 1999: 328

rights may be prohibitively costly, which may discourage workers from bringing suit against their employers. Employers, in turn, may discount this behavior⁵². Therefore, regulations and litigation can only offer limited protection to workers.

Second, *unions* are also insufficient to fully protect workers from domination. Marx has underlined a long time ago that they miss their point if they only make punctual strikes against capitalists instead of transforming society⁵³. Moreover, Gonzalez-Ricoy also suggests that unions do not track the interests of workers as well as internal binding mechanisms. More importantly, Scott and others underline that the limited power unions *do* have is weakened the more they use it. Unions draw their power from the fact that for public authorities or firms, they are the only ones able to calm down social turmoil. Yet, the better they are at calming social turmoil, the less they have power over public authorities and firms because the threat of worker revolt diminishes⁵⁴. Moreover, the more unions use their power, the less they are approved by the public, which makes the decision to use their power a difficult strategic choice⁵⁵. This shows the limits of litigations and unions to protect workers.

However, there is one limit to this argument. In a corporatist society in which unions would be widespread and supported by strong regulations, unions would be able to help all workers in litigations procedures and would be able to negotiate good working conditions on behalf of all workers without using strikes and other methods that undermine their perceived legitimacy. In such a system, workers would enjoy a lot more protection from domination⁵⁶.

ii. The “scope of power”: The third and strongest argument justifying why the promotion of worker cooperatives or democratic workplaces is necessary to maximize the protection from domination of the least well-off is the following. Redistributive policies, litigations, and unions can only provide workers with more bargaining power over *some decisions* such as wages and working conditions. But the scope of workers’ power will remain limited as long as the owners and managers of economic organizations keep the power over the *most crucial* decision within firms, such as hiring and layoffs, investment choices, delocalization or even important aspects of the division of labor such as participation in management.

Authors such as Ove Moene, Young or Malleson argue that, as long as capitalists keep the power over these decisions, as long as they keep the power to decide how to invest and delocalize capital at their discretion, the risk of arbitrary interference remains important. The power of unions over these issues will always remain limited⁵⁷. Therefore, capitalists will keep the power over key decisions affecting workers in many important ways such as the development of their identity and skills, the capacity to maintain their social networks, their friends, their habits and so on. While egalitarian and democratic organizations like worker cooperatives provide workers with direct decision-making power on all important decisions, corporatists systems only provides workers with *some power* over a *limited subset* of decisions, force them to enter large union structures, with workers they often don’t know, in order to negotiate with managers they don’t elect, under the risk of delocalization⁵⁸.

⁵² Gonzalez-Ricoy 2014: 249

⁵³ Marx 1865: 73-74

⁵⁴ Scott 2012: 21

⁵⁵ Rouillard 1991: 277, 291- 295, 305 (I will emphasize this in the following sections).

⁵⁶ Hussain (in O’Neill & Williamson 2012a) argues for a form of corporatist society for instance.

⁵⁷ Ove Moene (in Elster & Ove Moene 1989: 83, 93) also argues that unions’ power on investment choices is limited. See also: Van Parijs 1995: 221-222; Young 2006: 94; Mallson 2014: 137-152

⁵⁸ Even if everyone gets the opportunity to be a shareholder thanks to capital redistribution, and thus have some power over economic decisions, workers might not invest all of their capital in their own firm and even if they did, this would not give them enough power over the decisions in the firm, certainly not enough to counter balance the interests of all the other investors that are not affected by the working conditions inside firms.

1.3 – Why is WSC insufficient to realize a just distribution of self-governing capacities?

Another interpretation of the “powers and prerogatives of offices and positions of authority and responsibility” is inspired by Arnold’s proposition to distribute the social bases of self-governing capacities. While protection from domination consists in external safeguards protecting us against arbitrary interference, self-governing capacities are the internal mental capacities necessary to make autonomous choices. I have also shown that public institutions must give the least well-off access, as much as possible, to a social position combining a high amount of each primary good, including the *social bases* of self-governing capacities:

The social bases of self-governing capacities: The various social conditions and all-purpose means necessary for citizens to develop their self-governing capacities to reflect on their preferences, use efficiently their resources to realize their plans in life, develop a sense of justice, claim what they are entitled to and respect their obligations⁵⁹.

Egalitarian organizations are assumed, by definition, to be able to distribute the social bases of these capacities more equally within and across them. By contrast, inequalitarian organizations create more inequalities. Of course, what matters is to give the least well-off access to a social position attached to a high amount of social bases of self-governing capacities, not equal amounts necessarily. However, because the development of self-governing capacities depends on the way power and work are organized within organizations, occupational equality is important to help the development of self-governing capacities⁶⁰. This is at least the position of Samuel Arnold:

So the choice boils down to this: if you wanted to develop your rational capacities, your sense of justice, and your ability to pursue a wide range of determinate conceptions of the good, which would you pick – a simple, unskilled job nestled in the base of a towering, undemocratic pyramid of command, but which pays pretty well; or a lower-paying job that activates your judgment, calls upon your capacities for self-government and sociability, and develops in you a range of skills and abilities that transfer to a host of non-work activities? Surely the worst off might reasonably prefer the latter...⁶¹.

Again, the argument is that, while inequalities of income can be rectified, inequalities in the social bases of self-governing capacities are less likely to be remediable. Is this true?

WSC fails to secure a high amount of self-governing capacities to the least well-off

Arnold proposes interesting arguments to demonstrate that occupational equality is important to help the development of self-governing capacities. He first distinguishes occupational inequality from occupational differentiation. Occupational differentiation is unjust only if it leads to inequalities of primary goods between different occupations:

Let me begin by distinguishing between occupational inequality and occupational differentiation. *Occupational differentiation* obtains between two jobs to the extent that they involve different labor processes. Doctors and lawyers, for instance, engage in different work activities, and so count as having distinct occupations. *Occupational inequality*, by contrast, obtains between two jobs insofar as they convey unequal packages of the primary goods of authority, responsibility, and complexity⁶².

One radical way to secure occupational equality would be to eliminate occupational differentiation. But this solution is not desirable because of the tremendous advantages in

⁵⁹ Rawls 2001: 57-60, 175; Freeman 2007: 297; Arnold 2012: 101, 114. Cf. Chapter 2

⁶⁰ Arnold 2012: 101-114. Cf. Chapter 2

⁶¹ Arnold 2012: 114. See also: Arnold 2013: 389. I argued why the latter is more reasonable in Chapter 3.

⁶² Arnold 2013: 106

terms of both freedom of occupational choice and economic efficiency that division of labor provides. There are much less intrusive ways to secure occupational equality, which means to secure that all jobs involve similar levels of complexity and responsibility so that people can develop self-governing capacities. Public institutions, we will see, can simply promote more egalitarian organizational structures to secure occupational equality. Arnold does not even go that far and simply proposes a “twofold cure”: “awaken worker interest in non-pecuniary aspects of work while simultaneously improving workers’ bargaining position”⁶³.

The general idea is to make sure that the division of labor creates jobs providing similar levels of authority, complexity, and responsibility. This depends mainly on the way the workplace is organized and the level of control employees have within the firm. According to Arnold, this is especially true for lower-skilled workers for which the very characteristic of their main activity does not involve responsibility or complexity (he gives the examples of janitors for instance). For them, one way to increase the responsibility and the complexity involved in their work is to make them participate in firms’ decisions and management: “if their firms are organized democratically then these workers are roughly on a par with respect to... authority”⁶⁴. Young has similar intuitions. She asks:

How shall we evaluate morally the structure of the occupational distinctions, the definition of tasks within them, and the relations among people occupying differing positions within a production, distribution, or service enterprise? Is it just, for example, that an aspect of the basic structure of society consists in an occupational pyramid where the more plentiful positions at the bottom are relatively menial, repetitive, and subordinate to the decisions of others, while the few positions at the top carry broad autonomy, decision-making power, and prestige?⁶⁵

The various ways to divide labor might be normatively equivalent. Some may be considered to be unjust. Young illustrates this possibility with the case of sexual division of labor:

A division of labor persists as part of the basic structure of most societies in the world, which assumes that women devote primary energies to taking care of children and other dependent family members, while ideally men are the primary income generators for a family. Feminists argue that this division of labor is unjust, because it limits women’s opportunities to develop other capacities and achieve public recognition, and often makes them vulnerable to poverty⁶⁶.

Hsieh also argues that many jobs will always remain difficult and repetitive because of advanced division labor. Democratizing decision-making structures inside firms might be the only way to make sure that all jobs remain more complex. This would diversify workers’ tasks and responsibilities, requiring from them more judgment, initiative, and intellect:

One possibility is to guarantee workers greater control over the management of the economic enterprises in which such work is conducted. The thought is that if the content of the work itself cannot be made meaningful, the overall work experience can be made more meaningful by requiring the exercise of judgment, initiative, and intellect at the organizational level⁶⁷.

Yet, some may wonder whether promoting egalitarian organizations and occupational equality does not already restrict formal freedom too much. There may be even less intrusive ways to secure that everyone can develop self-governing capacities. Intervening in firms’ structures may not be necessary. Public schools, training programs, and participation in politics could be sufficient to help everyone to develop and sustain self-governing capacities.

⁶³ Arnold 2012 : 116

⁶⁴ Arnold 2013: 106-107

⁶⁵ Young 2006 : 93

⁶⁶ Young 2006: 93

⁶⁷ Hsieh 2009: 408. See also: Clayre 1980: 3, Fleurbaey 1993: 218, 220, 225

In order to rule out this possibility, we need to demonstrate that the inegalitarian character of an organization and the occupational inequality resulting from it *do* lead to inequalities in self-governing capacities and, more importantly, make people *lose* self-governing capacities over time. If inegalitarian organizations *do create* inequalities and even make people *lose* self-governing capacities, then the argument is that it becomes very costly and hazardous to constantly try to correct these unjust outcomes. I will now expose empirical evidence suggesting that inegalitarian organizations and occupational inequality *do create* inequalities in self-governing capacities and *do undermine* their sustainability. Empirical evidence also suggests how they can make people *lose* the self-confidence required to use these capacities.

Empirical evidence about the double effect of occupational inequality: The argument is an old one, already found in the work of Adam Smith. He was the first one to underline in a rigorous way the advantages of division of labor for “the wealth of nations”⁶⁸. But he already underlined possible negative effects for workers. He was well aware of the fact that too much division of labor tends to corrupt workers bodies and minds⁶⁹:

The understandings of the greater part of men are necessarily formed by their ordinary employments... The man whose whole life is spent in performing a few simple operations... has no occasion to exert his understanding or to exercise his invention... He naturally loses, therefore, the habit of such exertion, and generally becomes as stupid and ignorant as it is possible for a human creature to become⁷⁰.

John Stuart Mill was also concerned by the impact of the way work was organized on workers’ dignity, autonomy, and abilities⁷¹. The intuition is that working every day in hierarchical, authoritarian and inegalitarian organizations in which there is little room for expressing autonomous judgments and critical spirit can have long-term effects on the development of self-governing capacities. These intuitions are taken up by Arnold:

A standard textbook tells us that job complexity refers to “the level, scope, and integration of mental, interpersonal, and manipulative tasks in a job.” Complexity thus implies more than mere variety or abundance of tasks. Complex work is work in which thinking and doing, conception and execution, are, to some significant degree, united. Simple work, by contrast, is mindless work, merely executive work, work that scarcely activates the faculty of judgment. It is work that is all doing and no (or very little) thinking. As an example of complex work, think of the rich responsibilities of a craftsman like a carpenter or of a professional like a doctor. To make simple work vivid, picture the robotic routine of the assembly line, the modern call center, or the fast food counter⁷².

Arnold underlines empirical evidence showing that taking responsibilities and having a complex work are very important to develop self-governing capacities. Because inegalitarian organizations lead to occupational inequalities, they create inequalities in self-governing capacities. Moreover, they create jobs that limit occupational self-direction which decrease self-governing capacities⁷³. He cites, for instance, Melvin Kohn and Carmi Schooler:

⁶⁸ For Adam Smith, “The greatest improvement in the productive powers of labour, and the greatest part of skill, dexterity, and judgment with which it is any where directed, or applied, seem to have been the effects of the division of labour” (Smith [1776]: 71 (*my translation*)).

⁶⁹ Smith [1776]: 406. Arnold (2013: 402) underlines how important this point is in Adam Smith’s thought. I use his translation. About Adam Smith, see also: DelleMotte 2009: 35

⁷⁰ Smith [1776]. The citation is underlined by Arnold (2012: 102-103)

⁷¹ Mill [1848] (Book IV, Chapter 7, §4, §5, §6, §7)

⁷² Arnold 2012: 102

⁷³ Arnold 2012: 99-103

Job conditions actually do affect personality... Jobs that facilitate occupational self-direction increase men's ideational flexibility and promote a self-directed orientation to self and to society; jobs that limit occupational self-direction decrease men's ideational flexibility and promote a conformist orientation to self and to society⁷⁴.

But we can go further. Miller and his colleagues have shown that on the one hand, there is a mind-stretching experience of doing substantively complex work and on the other hand, there are deleterious effects associated with repetitive work. In order to make sure that repetitive jobs really were the cause of *reduced* intellectual capacities, they controlled their results by comparing them to the ones of non-working people (such as stay-at-home women)⁷⁵:

For employed women, job conditions that encourage self-direction are related to effective intellectual functioning and an open, flexible orientation to others, while those that constrain opportunities for self-direction are related to ineffective intellectual functioning and a rigid social orientation. Moreover, several types of job pressures and uncertainties are related to less effective intellectual functioning, unfavorable evaluations of self, or a rigid social orientation⁷⁶.

Various studies about retirement also suggest a relationship between job responsibilities and retirement satisfaction. This is interesting because, even if retirement satisfaction depends on many factors such as income and accumulated wealth, enjoyment at work, choice of retirement and the absence of abrupt disruption and so on, it also crucially depends on self-governing capacities. Researchers have demonstrated that responsibilities associated with management jobs and skills developed in complex jobs can help to develop various self-governing capacities that are very useful for preretirement planning and fulfilling retirement⁷⁷. After a life as managers or low-skilled worker, retirement experiences are often different:

The nature of the career job should also affect the quality of retirement. High (preretirement) occupational prestige is strongly associated with satisfaction in retirement (Richardson & Kilty, 1991; Secombe & Lee, 1986; Szinovacz, 1987), especially for women (Doffman, 1989). High-status professional and managerial careers give men and women the opportunity to develop the skills and autonomy that may be equally useful in retirement⁷⁸.

Another research confirms these results by showing how the promotion of work abilities for aging workers helps them to have a more active and meaningful retirement:

The promotion of work ability includes activities that promote the work ability of workers and workplaces. Its target areas are work demands and the environment, work organization and the work community, workers' health and functional capacity, and workers' professional competence... Good work ability was associated with a high quality of work and the enjoyment of staying in one's job. It also predicted active and meaningful retirement... The ability to function and well-being upon retirement were significantly better in the groups whose work ability index had been good or excellent 5 years earlier than among those whose work ability index had been poor or moderate⁷⁹.

The differences in retirement satisfaction can also be explained by the fact that some jobs help to identify the knowledge required to make successful plans in contemporary societies, such as basic financial literacy, helping workers to make good preretirement planning, whereas other jobs leave people without the appropriate knowledge:

⁷⁴ Kohn & Schooler 1982: 1281. Many other authors make similar observations. For instance, see: Scott 2012: 76-80; Miller & al. 1979: 66, 90

⁷⁵ Miller & al. 1979: 66, 90-91

⁷⁶ Miller & al. 1979 : 66

⁷⁷ Quick & Moen 1998: 44, 47, 61; Tuomy & al. 2001: 318, 321

⁷⁸ Quick & Moen 1998: 47. See also: Quick & Moen 1998 : 62

⁷⁹ Tuomy & al. 2001 : 318, 321

Economists are beginning to investigate the causes and consequences of financial illiteracy to better understand why retirement planning is lacking and why so many households arrive close to retirement with little or no wealth. Our review reveals that many households are unfamiliar with even the most basic economic concepts needed to make saving and investment decisions. Such financial illiteracy is widespread: the young and older people in the United States and other countries appear woefully under-informed about basic financial concepts, with serious implications for saving, retirement planning, mortgages, and other decisions⁸⁰.

Instead of comparing the nature of careers, another way to demonstrate how important working conditions are to develop self-governing capacities is to compare retirement quality between men and women. Various studies have shown that women are generally less satisfied with their retirement because they often have fewer responsibilities at their job:

Women who move in and out of the labor force have fewer opportunities to develop skills, to increase their knowledge base, or to move up the organizational ladder. The jobs that women occupy also tend to be at lower levels of responsibility and autonomy, affecting both their personality and their life outside of the workplace... and possibly affecting the quality of their retirement as well...⁸¹.

Finally, research shows that working conditions do not simply affect intellectual capacities but also self-confidence⁸². Occupational inequalities can reduce people's self-confidence, and make them think their capacities or opinions are worthless. This can prevent them from making an effective use of their capacities. The lack of self-confidence increases the risk of self-censorship. Anderson also points out that subordinate work undermines self-confidence:

To be capable of functioning as a human being requires... knowledge of one's circumstances and options, the ability to deliberate about means and ends, the psychological conditions of autonomy, including the self-confidence to think and judge for oneself⁸³.

Again, a striking example is how occupational inequalities between men and women can explain the inequalities in self-confidence between men and women. Research suggests that women have lower levels of self-confidence than men and that low self-confidence is a frequent problem among women. This has potentially "debilitating" consequences and affects the capacity of women to exercise effectively their capacities⁸⁴.

Moreover, it is important not to forget that the development of self-governing capacities of parents has an impact on their ability to transmit these capacities to their children through parental education. The fact that workers can lose self-governing capacities because of their work is thus problematic not only for the long-term distribution of self-governing capacities. It will partly affect how efficient schools can be to equalize the distribution of the social bases of self-governing capacities and provide the least well-off with a high amount of them.

Clearly, empirical evidence suggests that responsibilities and complex work are necessary to provide the least well-off with a high amount of the social bases of self-governing capacities in a sustainable way over time. Because inequalitarian organizations lead to occupational inequalities, they *create* inequalities in self-governing capacities and can even make workers *lose* self-governing capacities over time. They also affect the self-confidence required to make an effective use of these capacities. In a system tolerating inequalitarian organizations it would thus be costly and hazardous to try to constantly correct these unjust outcomes.

⁸⁰ Lusardi & Mitchell 2007: 35-44

⁸¹ Quick & Moen 1998: 47

⁸² Miller & al. 1979: 66, 90-91

⁸³ Anderson 1999: 317-318, 328. See: Van Parijs, *in* Freeman 2003: 221; Deakin, *in* Deakin & Suppiot 2009: 18-19

⁸⁴ Lenney 1977: 1

1.4 – Why is WSC insufficient to realize a just distribution of self-respect?

Rawls thinks the most important social primary good is “the social bases of self-respect”. The pages in *Theory of justice* in which he describes what he understands by self-respect are amongst the most intelligent, sensitive and fascinating ones in political philosophy. Beyond the power of the rational construction that his theory represents, these pages make us measure the giant mind and the sensitive man behind it. In these few pages, he really touched, I think, something fundamental about human beings⁸⁵. For Rawls, self-respect has two aspects:

First of all, [self-respect] includes a person’s sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out. And second, self-respect implies a confidence in one’s ability, so far as it is within one’s power, to fulfill one’s intentions. When we feel that our plans are of little value, we cannot pursue them with pleasure or take delight in their execution. Nor plagued by failure and self-doubt can we continue in our endeavors. Without [self-respect] nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism⁸⁶.

Self-respect has social bases. Institutional structures influence the way individuals consider themselves and one another. Some institutions make people see each other as adversaries or competitors whereas others help people to have a positive conception of their person:

The social bases of self-respect: The various social conditions and “those aspects of basic institutions normally essential if citizens are to have a lively sense of their worth as a person and to be able to advance their ends with self-confidence”⁸⁷.

The argument in the case of self-respect follows a similar path than in the two previous cases of protection from domination and self-governing capacities. In fact, being attentive to the distribution of the social bases of self-respect is one way to integrate into a liberal framework some intuitions of theories of recognition or relational egalitarianism⁸⁸. However, in order to remain liberal and non-perfectionist and to focus on workable primary goods, Rawls insists on distributing the “social bases” of self-respect or meaningful relationships. Again, the argument could be that while inequalities of income can be rectified, inequalities in the social bases of self-respect are less likely to be remediable. Is it true?

A just distribution of basic freedoms and social primary goods secures self-respect

The argument I will develop now is based on the idea that securing equal basic formal freedoms (or basic liberties), fair equality of opportunities, and a just distribution of all the other primary goods to social positions is sufficient to secure everyone’s self-respect.

At the very least, the existence of a system of equal basic formal freedoms secured by the first principle is required for everyone to enjoy a minimum of self-respect. This is because the way institutions are organized has an expressive value. Equal basic liberties and equality before the law, for instance, express *equal respect* for everyone and send the message that all citizens are considered equal⁸⁹. Self-respect also depends on the fair distribution of opportunities to social positions and on a fair distribution of other primary goods. By providing fair access to the means to realize their plans in life, whatever they may be, and no matter people’s social or

⁸⁵ Rawls 1971: 440-446

⁸⁶ Rawls 1971: 440

⁸⁷ Rawls 2001: 59

⁸⁸ Young (1990: 24-25) remains skeptic but she recognizes herself that liberal theories do that.

⁸⁹ Rawls 2001: 60, 114

cultural origin, or their gender, public institutions also express an *equal concern* for everyone's real freedom. In the terms defined in Chapter 2, this means that self-respect is not a separate good because having all the other goods in a just amount necessarily allows you to obtain self-respect.

In fact, even if we suppose a just distribution of basic liberties and opportunities, there may be social positions attached to great income but no power and few self-governing capacities or to very few income but great protection from domination and more self-governing capacities. However, it is difficult to think of someone holding a social position with great income, great protection from domination and great self-governing capacities with very low self-respect. Such a situation could be possible temporarily because of existing prejudices or because the division of labor can create inequalities of status and competitive behaviors. However, a just distribution of other primary goods would solve this over time. Therefore, self-respect is a very important primary good and the quest for self-respect may be the very reason why people ask for equal rights, equal opportunities and their fair share of primary goods in the first place. But because a just distribution of all other goods constitutes the social basis of self-respect, there is no need to focus on the distribution of self-respect *per se*.

The fact that inequalities in basic freedoms, in opportunities, and in other primary goods can affect individuals' self-respect is simply an additional reason for public institutions to maximize the situation of the least well-off in terms of all these other primary goods.

WSC fails to secure a high amount of social bases of self-respect to the least well-off

Because a just distribution of the other primary goods constitutes the social basis of self-respect, and because a just distribution of the other primary goods requires the promotion of egalitarian organizations, then a just distribution of self-respect also requires the promotion of egalitarian organizations. This is why other mechanisms would fail to give the least well-off access to a social position attached to a high amount of the social bases of self-respect.

For this argument to be valid, I need to demonstrate that an equal distribution of basic liberties and opportunities and a just distribution of the other primary goods exhaust what is required for a just distribution of the social bases of self-respect. I will *first* focus on how self-respect is affected by our own judgment about ourselves. I will *then* focus on how self-respect is affected by the judgments of others about us, especially in competitive environments.

i. Self-judgment: For personal reasons based on their own conception of the good, individuals can develop positive or negative conceptions of themselves in different institutional arrangements. But if they have a high amount of other primary goods, they can transform their environment in order to make their situation or social position fit better with their expectations. The main example of this is the whole debate about "meaningful work"⁹⁰. Of course, our daily activity has a major impact on the way we think of ourselves and the conscience of our self-worth. More or less authoritarian and pyramidal division of labor certainly influences individuals' self-perception, self-confidence, and self-respect⁹¹. Rawls, along with many authors, gives the example of women, for which sexual division of labor creates disadvantages, not the least in terms of self-respect. He argues that we should either equalize tasks or compensate women for the inequalities due to domestic work⁹².

⁹⁰ Schwartz 1982: 634-646; Arneson 1987: 517-545; Moriarty 2009: 441-59; Roessler 2012: 83

⁹¹ Rawls 1971: 259; 520-541; Freeman 2007: 133; Young 2006: 93. About self-respect and self-confidence, see also: Miller & al. 1979: 66, 90; Lenney 1977: 1

⁹² Rawls 2001: 163-167; Young 2006: 92-94

The problem is that there is no liberal, non-perfectionist way to define what a “meaningful work” is⁹³. Some may find working as a top executive in an investment bank to be meaningful while other would think such a job most often deprives us of any humanity and transform the ones who do it into pretentious cash-addicts, unable to enjoy simple pleasures in life and ready to crash others for money. Some may think having a job on the market is important while others might think that being a stay-at-home dad or a stay-at-home mom is very fulfilling. Therefore, public institutions should avoid specifying which specific relations are important for self-respect or what kind of work is “meaningful”. Except for extreme forms of deprivation such as slavery, there is no way to decide for others what a “meaningful work” is.

Given these constraints, there would be only three strategies to make sure people have access to a social position that fits their conception of what a meaningful work is. One strategy would be to gather information about what are the preferences of each and every citizen in order to design a socio-economic system that gives the exact social position that fits his conception of a meaningful work. I argued in Chapter 2 that this would not be possible. A second strategy would be to raise the sheer number of job offers so that the variety of jobs on the market would allow everyone to find a job fitting their preferences. But this would not be workable for obvious reasons. The only remaining solution is to give people the capacity to diversify the tasks in existing jobs and craft their own social position according to their preferences and their conception of “meaningful work”. This requires providing them with the power and self-governing capacities to do so within their own organization. Therefore, the best way to secure that everyone has access to a social position that fits his preferences in terms of self-respect is to distribute power more equally within economic organizations and thus to maximize the protection from domination of the least well-off⁹⁴.

ii. Social recognition: Self-respect is often affected by the judgments others make about us, especially in competitive environments. The way institutions are designed influences how people see each other. Unequal societies create more competition which has many negative outcomes. One of them is to affect people’s self-respect negatively.

Many authors argue that the very existence of inequalities creates inequalities of status which in turn create many social problems. But beyond the numerous social problems created by inequalities and poverty, inequalities of status can create problems for individuals’ self-respect. First, the symbolic universe coming along with important inequalities, a universe in which wealth is regarded as important and poverty is depreciated can first push everyone to compare themselves with others. People occupying well rewarded and prestigious social position will compare themselves with other privileged people, will develop expensive tastes and will engage in ostentatious consumption. As a consequence, less advantaged people will also compare themselves with more advantaged people and depreciate themselves. People with objectively good conditions of living could develop a poor conception of themselves, could become unsatisfied with their lives and even fall into depression⁹⁵.

Second, this symbolic universe pushes people to compete in order to get ahead of others and to grab the advantages attached to higher positions before others do. This also raises anxiety and it can affect the self-respect of the ones considering themselves or considered by other as the “losers” (even if they have objectively good lives by any reasonable standard)⁹⁶. The lack

⁹³ Kymlicka 2002: 191

⁹⁴ Hsieh 2009: 404; Young 2006: 93

⁹⁵ Wilkinson & Pickett 2010: 18-24, 31-45. I analyze in details the consequences of competition in section 2.3.

⁹⁶ Wilkinson & Pickett 2010: 18-24, 31-45; Stiglitz 2012: 136-164

of self-esteem, the frustration and often the humiliation that people can develop in more competitive environments lead to many problems such as anxiety, obesity, mental illness, and depression⁹⁷. It can also prevent people from developing meaningful relationships that are crucial in order to help most people to develop their self-respect⁹⁸.

The academia is a good example of how very competitive environments can emerge simply because of inequalities of status. The competition for tenure jobs, publications, citations etc., incentivizes people to compare themselves with others and to compete on quantitative criteria. One consequence is to increase anxiety and to make people more vulnerable to the judgment of others. Not only can this lead academic institutions to compete on criteria that have little to do with real academic excellence, but this can also lead some academics to develop problems linked to the lack of self-respect such as isolation and depression⁹⁹. The example is particularly interesting because the competition is not very much triggered by large inequalities of income or wealth but almost entirely because of inequalities of influence and status within academia and social recognition outside the academia.

Reducing inequalities of purchasing power, but more importantly inequalities of protection from domination and self-governing capacities within economic organizations, and therefore flattening the pyramid of occupations to secure occupational equality, is the best way to reduce the inequalities of status and the competition for prestige that comes with it. Providing people with more power to craft their social position and decide how to organize their work would not only flatten the pyramid of occupation and the resulting inequalities of status but it would also make them able to craft working environments that are less competitive and fit better their preferences in terms of self-respect. Providing people with more social bases of self-governing capacities would also help them to develop critical thinking, self-confidence in their judgments and life choices and in the long run, more independence from the judgment of others. This would also help them to keep a higher level of self-respect.

This discussion sheds some light to the main difference between liberal and non-liberal judgments about the division of labor and social relationships or interactions such as the ones going on within competitive markets. Liberals need to avoid imposing one specific conception of the good life to everyone. Distributing power more equally inside organizations and making sure everyone participates into decision-making can only be justified on instrumental grounds: because it provides workers with the power to decide how to design the division of tasks inside organizations and the intellectual capacities to develop critical thinking and self-confidence. Of course, the division of labor and competition do have effects on self-respect, and self-respect is important. But this is only an additional reason to care about a just distribution of all the previous social primary goods.

Because an equal distribution of basic formal freedoms and opportunities and a just distribution of other social primary goods constitutes the social bases of self-respect and secure a just distribution of self-respect to all, and because a just distribution of other social primary goods requires the promotion of egalitarian organizations, then the distribution of self-respect also requires the promotion of egalitarian organizations. This is the first reason why other mechanisms would fail to give the least well-off access to a social position attached to a high amount of social bases of self-respect. Moreover, redistributive policies can hardly

⁹⁷ Wilkinson & Pickett 2010: 24-26, 31-45, 95.

⁹⁸ Anderson 1999; Mackenzie & Stoljar 2000

⁹⁹ Scott 2014: 101-119. Studies show a lot of depression among academics at all stages of their careers: <http://www.theguardian.com/higher-education-network/2014/mar/06/mental-health-academics-growing-problem-pressure-university>

change the prestige or appeal that superior positions have in people's mind because they do not modify the pyramid of occupations within organizations. Therefore, a just distribution of the social bases of self-respect requires changing the structure of economic organizations. Distributing more fairly all social primary goods within organizations would give people the capacity to craft their own social position. In this way, everyone would have access to the kind of social position that fits what they think is required to develop self-respect. Again, unlike the case of purchasing power and redistributive taxation, in which most problems could be solved in ideal circumstances, in the case of the social bases of self-respect, less intrusive policies such as the ones of WSC would fail to provide the least well-off with a high amount of the social bases of self-respect because they would not compensate for all the negative effects of menial and repetitive jobs created by inequalitarian organizations.

Conclusion of the distributive argument:

The “distributive argument” justifies that more organizations should be egalitarian

Justice requires public institutions to realize a just distribution of all social primary goods between social positions. These goods are the social bases of purchasing power, protection from domination, self-governing capacities, and self-respect¹⁰⁰. I assume for now that there are egalitarian organizations able to distribute all these goods more equally. Therefore, tolerating inequalitarian organizations is acceptable if and only if **A**: A Strong Welfare State Capitalism is *sufficient* to realize all the requirements of justice by correcting all unjust outcomes created by inequalitarian organizations. The problem with this assumption is the following. I argued that maximizing the situation of the least well-off most likely required giving him access, as much as possible, to a social position combining a high amount of each primary good¹⁰¹. In this first section, I argued that that the assumption **A** is not true:

¬**A**: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it fails at realizing a just distribution of *all* primary goods.

There are two main ways for the Welfare State to fail to realize the principles of distributive justice. First, (a.) the *redistributive policies* could *themselves* create distributive injustices in terms of other goods. I have shown that it is the case for some redistributive policies but not for all of them. Therefore, there are ways for the Welfare State to avoid this first problem. Second, (b.) *inegalitarian organizations* could create distributive injustices that the redistributive mechanisms of the Welfare State necessarily fail to correct. The *distributive argument* was based on (b.). It goes as follow:

(1-) Public institutions should realize a just distribution of *all* primary goods by securing to the least well-off access to a position combining a high amount of each primary good.

(2-) But (b.) inequalitarian organizations create distributive injustices for some goods that redistributive mechanisms necessarily fail to correct.

Conclusion: ¬**A**: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it fails to realize a just distribution of all primary goods.

I argued that, unlike the case of purchasing power and redistributive taxation, in which most problems could be solved in ideal circumstances, in the case of protection from domination, self-governing capacities, and self-respect, alternative policies are insufficient to realize justice. The strongest basic income, systems of litigations, unions, and the best school system cannot compensate for all the unjust outcomes created by inequalitarian organizations.

¹⁰⁰ Rawls 2001: 139-140. Cf. Chapter 2

¹⁰¹ The reason for that is that all primary goods have diminishing marginal returns. Cf. Chapter 3

Empirical evidence thus tends to suggest that $\neg A$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize the requirements of the difference principle. It is insufficient to give the least well-off, as much as possible, access to a social position attached to a high amount of each social primary good.

The distributive argument only allows justifying that *more* organizations should be egalitarian. Promoting egalitarian organizations is necessary to make sure that everyone in the lowest social positions has access to a position within an egalitarian organization. But neither does it justify that *all* organizations should become more egalitarian, nor that public institutions should get rid of all inegalitarian organizations. Organizations employing only more well-off people could still be inegalitarian without threatening the situation of the least well-off. Therefore, the distributive argument requires public institutions to promote egalitarian organizations but leaves open the possibility to tolerate inegalitarian organizations.

Versions of this distributive argument have led authors to argue for the promotion of more democratic forms of organizations¹⁰². Hsieh is worried by protection from domination:

Changes to the decision-making procedure within economic enterprises will be required to protect workers fully against [for example] being subject to the capacity for arbitrary interference. [...] these changes might include a right for workers to participate in the management and governance of economic enterprises or the institutionalization of procedures to allow workers to contest managerial decisions¹⁰³.

Arnold underlines that there are reasons to think that labor-managed firms are preferable because they also help workers to develop self-governing capacities. Such firms combine high levels of productivity with a more egalitarian distribution of the social bases of self-governing capacities. The reason is simple. Since all workers participate to some extent to decision-making, they divide tasks to the advantage of workers¹⁰⁴. There are many ways in which working conditions can help develop workers' capacities. As James Scott puts it:

The term "capacity" as we have used it here could be understood narrowly or broadly. Taken narrowly with respect to, say, auto worker, it might refer to how many "positions" on the line they had held, whether they had learned pop-riveting, welding, tolerance to adjustments, and so forth. Taken broadly, it might mean more skilled or management work, whether they had gained cooperative experience in the organization of the work process itself, whether their creativity was fostered, whether they had learned the skills of negotiation and representation on the job¹⁰⁵.

I still need to evaluate in greater detail which organizations should be promoted in order to give the least well-off access, as much as possible, to a social position combining a high amount of each primary good. I will investigate this issue, and address issues such as efficiency and feasibility constraints in Chapter 6. But we have already reached an interesting conclusion. The failure of Welfare States to realize a just distribution of all primary goods justifies public intervention to promote more egalitarian organizations.

Now, a second argument underlines the importance of stability. The "*stability argument*" is important to demonstrate not only why *more* organizations should be egalitarian, but why *all* organizations should be egalitarian. Instead of focusing on the distribution at one given point in time, the "*stability argument*" focuses on the importance to secure justice *over time*. In other words, the "*stability argument*" is based on the need for just institutions to be *stable*.

¹⁰² Dahl 1985; Hansmann 2000: 11; Fleurbay 2006: 172, 202; Young 2006: 94; Lovett 2010: 73; Malleson 2014; Gonzalez-Ricoy 2014: 253

¹⁰³ Hsieh 2009: 408

¹⁰⁴ Arnold 2012: 110

¹⁰⁵ Scott 2012: 69

2 – The “*stability argument*” to justify that *all* organizations should be egalitarian

Justice requires public institutions to realize a just distribution of all primary goods between social positions. But public institutions also need to do so *in a stable way*¹⁰⁶. Implementing a set of just institutions that would soon lead to their own collapse or corruption would be useless. Therefore, tolerating inequalitarian organizations is acceptable if and only if **A**: A Strong Welfare State Capitalism *is sufficient* to realize all the requirements of justice *in a stable way*¹⁰⁷. The second argument provides empirical evidence to support $\neg A$:

$\neg A$: A Strong Welfare State Capitalism, *even its strongest version*, is always insufficient to realize all the requirements of justice because it fails to do so *in a stable way*.

Here again, there are two main ways for the Welfare State to fail to realize distributive justice in a stable way. First, (a.) the *redistributive policies* could *themselves* create instability problems. Second, (b.) *inegalitarian organizations* could create instability problems. The second argument relies on both (a.) and (b.). The argument goes as follow:

(1-) Public institutions should realize a just distribution of all primary goods *in a stable way*.

(2-) But (a.) redistributive mechanisms *and* (b.) inequalitarian organizations both create instability problems threatening the sustainability of just institutions over time.

Conclusion: $\neg A$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize all the requirements of justice because it fails to do so *in a stable way*.

I will argue that it is necessary for public institutions to promote egalitarian organizations because Welfare State Capitalism is an unstable system. (a.) Redistributive mechanisms and (b.) inequalitarian organizations create too much *institutional complexity*, create *undesirable incentives* and fail to nurture or to maintain the appropriate conditions to exercise our “*sense of justice*”. This threatens the stability of just institutions over time. I will analyze these claims for all the social primary good that are concerned. This is why I will conclude that it is necessary for public institutions to make sure that *all* organizations are egalitarian.

Therefore, the scope of the “*stability argument*” is larger than the one of the “*distributive argument*”. It does not only demonstrate why *more* organizations should be egalitarian, but it also demonstrates why *all* organizations should be egalitarian and therefore why we should get rid of *all* inequalitarian organizations. Indeed, the stability argument shows that the redistributive programs within the Welfare States and inequalitarian organizations, by their mere existence, always threaten the stability of just institutions over time. This is the reason why it is desirable to get rid of all inequalitarian organizations.

Contrary to previous versions of this second argument, I will explain in more details how inequalitarian organizations can threaten stability. Concerning the requirement to provide the conditions to exercise a sense of justice, I will also argue against previous versions of this argument and show that we should not expect egalitarian organizations to foster the participation of citizens in politics *per se* but simply expect them to foster the development of self-governing capacities that would allow people who want to get involved in politics to do so in a meaningful way. This is a restricted view that avoids the empirical problems that more demanding arguments often raise (such as the need to demonstrate empirically the causal link between the promotion of egalitarian organizations and citizens’ political participation).

¹⁰⁶ Rawls 2001: 139-140

¹⁰⁷ Cf. Chapter 4

I conclude that Welfare State Capitalism, even its strongest version, is always *insufficient* to compensate for the unjust inequalities created by inegalitarian organizations because (a.) the redistributive policies themselves and (b.) inegalitarian organizations both create serious problems for the stability of just institutions over time. In order to avoid the instability problems created by welfare programs and inegalitarian organizations, public institutions should get rid of *all* inegalitarian organizations. Therefore, while the first distributive argument is insufficient to reject a mixed system involving both egalitarian and inegalitarian organizations, the second stability argument shows why it is necessary for public institutions to make sure that *all* organizations become egalitarian.

Here is a road map of Section 2, developing the stability argument.

In Section 2.1, I explain what the requirement of stability is and why it is important.

In Section 2.2, I argue that (a.) redistributive mechanisms and (b.) inegalitarian organizations create too much *institutional complexity*.

In Section 2.3, I argue that (a.) redistributive mechanisms and (b.) inegalitarian organizations create *undesirable incentives*.

In Section 2.4, I argue that (a.) redistributive mechanisms and (b.) inegalitarian organizations fail to nurture or to maintain the appropriate conditions to exercise our “*sense of justice*”.

I will conclude that the stability argument justifies that *all* organizations should be egalitarian.

2.1 – *The requirement of stability and its importance*

The stability of what?

A just society, because it is just, should remain just over time. As Rawls puts it, we have the obligation to *create* and *maintain* just institutions *over time*¹⁰⁸. A just society and the set of just institutions that are necessary to realize it are what need to remain stable over time. This means that whenever just institutions are implemented, they should continue to exist and keep their just character over time. Any theory of justice needs to propose principles that are realizable through the implementation of *stable* institutions. Implementing a set of just institutions that would soon lead to their own collapse or corruption would be useless.

The idea that the society needs to be stable is an old and obvious concern underlined by many philosophers from Hobbes to John Rawls¹⁰⁹. For Rawls, once we have elaborated a coherent and independent conception of political justice, such as justice as fairness, we need to evaluate “whether justice as fairness is sufficiently stable”. He adds: “Unless it is so, it is not a satisfactory political conception of justice and it must be in some way revised”¹¹⁰.

Of course, institutional stability does not require completely static institutions. A just society can have very stable democratic institutions while allowing for elected politicians to change public policies and to reform obsolete rules in order to adapt the legislation to new realities. What matters is that the most fundamental institutions, such as the democratic constitution, the legal system, and the main socio-economic institutions, meaning the fundamental institutions in charge of securing political equality, fair equality of opportunity and a just distribution of social primary goods, remain stable over time.

¹⁰⁸ Rawls 2001: 159, 184-188, 201

¹⁰⁹ Hobbes [1651]: 225; Rawls 1993: 140-141

¹¹⁰ Rawls 1993: 140-141

What are the conditions for public institutions to be stable?

There are two general conditions for public institutions to be stable. The first condition of stability is that the *agreement* about the conception of justice implemented in a society must itself be stable, in the sense that it must generate its own support. This means that rational and reasonable people, despite their divergent values and interests, must have reasons to agree on the conception of justice implemented in their society, such as justice fairness, and must accept to live under the institutions that are necessary to realize the principles of this conception of justice. The agreement about a conception of justice must be stable because no society can be stable if its members are continuously in open conflict with each other.

Indeed, the best way to secure stable social institutions is to make sure that everyone agrees on social rules. And the best way to secure everyone's agreement is to justify these rules in an impartial way. This is why the most stable institutions will precisely be the ones that follow principles of justice such as the ones of justice as fairness. On the long run, these principles are the ones that nobody could reasonably contest¹¹¹. As Rawls puts it:

The parties assume that they are choosing principles for a public conception of justice. They suppose that everyone will know about these principles all that he would know if their acceptance were the result of an agreement. Thus the general awareness of their universal acceptance should have desirable effects and support the stability of social cooperation¹¹².

The fact that social rules are willingly accepted is, therefore, a very important condition of institutional stability. Rawls says so when he describes what an “overlapping consensus” is: “The most stable conception of justice is one that is perspicuous to our reason, congruent with our good, and rooted not in abnegation but in affirmation of the self”¹¹³. He is prudent concerning the possibility to reach an overlapping consensus in all societies. People may not be able to reach such a consensus. But when they do, institutions will be the most stable. Wenar also underlines how important stability is in Rawls' theory of justice:

Why would a citizen willingly obey the law if it is imposed on her by a collective body many of whose members have beliefs and values quite dissimilar to her own? Yet unless most citizens willingly obey the law, no social order can be stable for long¹¹⁴.

In an overlapping consensus, citizens support the same basic laws for different reasons... each citizen supports a political conception of justice for reasons internal to her own comprehensive doctrine... Rawls sees an overlapping consensus as the feasible basis of democratic stability that is the most desirable. Stability in an overlapping consensus is superior to a mere balance of power among citizens who hold contending worldviews. Any balance of power (or *modus vivendi*) might shift, and social stability would then be lost. In an overlapping consensus, citizens affirm a political conception wholeheartedly from within their own perspectives¹¹⁵.

Indeed, if the agreement between citizens is based on a temporary balance of power, and if disagreements and conflicts are likely to come back as soon as the balance of power is modified, following such a conception of justice would lead to institutional instability. This is why, for Rawls, a conception of justice must not be based on a temporary agreement imposed by force but on a stable agreement based on an overlapping consensus¹¹⁶.

¹¹¹ Garthoff (*forthcoming*) argues for this interpretation of Rawls theory of justice.

¹¹² Rawls 1971: 165. For Rawls, the goal of creating a well-ordered society is one of the main criteria to compare various conceptions of justice (Rawls 2001: 8-9).

¹¹³ Rawls 1971: 499. See also: Rawls 1993: 140-144; 2001: 184

¹¹⁴ Wenar 2012

¹¹⁵ Wenar 2012

¹¹⁶ Rawls 2001: 89 (*note 10*)

There are many examples in History of the sort of instability deriving from the fact that people do not agree with social rules and reject them because they are partial. In very unequal and unjust societies, there are always latent and looming conflicts which can lead to uprisings and even revolutions. They are always unpredictable but happen from time to time. This is why, for Rawls, we all have an interest in finding an agreement securing a genuine and stable cooperation: “there is no alternative to social cooperation except unwilling and resentful compliance, or resistance and civil war”¹¹⁷. Indeed, the disagreement and frustration of people towards established rules can express itself through a conscious call for justice, but it can also express itself in more random and violent ways, through a nationalist resurgence, terrorism or civil war. Finding a common agreement about impartial social rules is, therefore, a necessary condition for the stability of society in general and just institutions in particular.

The second general condition of stability is that just institutions must respect *feasibility constraints*. Indeed, the stability of the agreement about a conception of justice is necessary but not sufficient to secure institutional stability. Just institutions must also respect political and economic feasibility constraints, solve collective action problems and cope with the scarcity of natural resources for instance. The institutional arrangement implemented to realize justice must be stable on this practical level as well. If a conception of justice proposes to implement institutional arrangements that are unsustainable and quickly lead to their own collapse, it is useless and futile to defend it¹¹⁸. A theory requiring institutions to spend all the resources on the fabrication of large wooden statues of Gods, for instance, could lead to prompt economic and environmental collapse and the collapse of just institutions themselves.

What justifies the normative importance of stability?

i. Stability justified by mutual advantage: To begin, stability is important simply for *mutual advantage*. Because individuals need social cooperation to realize their conception of the good, it is mutually advantageous for everyone to avoid conflicts and secure the stability of cooperation. This can justify the desirability of just institutions based on impartial principles, on which everybody could agree. Public institutions based on principles imposed by the elite to the majority, or even by the majority to the minority, nurture conflict, resentment and can even lead to civil war. This goes ultimately against everyone’s advantage because it threatens the stability of cooperation and thus the long-term prospects of everyone.

Even if we suppose that people are not really motivated by the realization of justice itself but simply by their own private interests, they still have self-centered reasons to realize justice in order to avoid political conflicts that could sabotage the stability of cooperation over time. This conception can even justify public policies nurturing a sense of justice because, instrumentally, this is a powerful way to secure the stability of public institutions.

ii. Stability justified for moral reasons: Some authors disagree with the conception of justice as mutual advantage and feel the need for a moral evaluation of institutions, independent of practical issues, because they fear that a conception of justice as mutual advantage could lead under some conditions to justify unjust behaviors such as the oppression of minorities. While Rawls is often ambiguous about which conception of justice we should choose, some authors thus prefer to defend what Rawls calls “stability for the right reasons”¹¹⁹.

¹¹⁷ Rawls 1993 : 301

¹¹⁸ Rawls 2001: 185-186; Freeman 2007: 243-282

¹¹⁹ I briefly talked about the distinction between justice as mutual advantage and justice as impartiality in the introduction, simply to say that there is an overlapping consensus about the requirements of justice and that the debate does not really affect most questions of justice (except the ones related to the scope of justice).

One option consists in defending a thin liberal conception of the good. If everyone in liberal and democratic societies shares the idea that it is important to respect people's autonomy, this would be an intrinsic moral reason why political decisions should be based on impartial principles respecting everyone's values or interests. Therefore, partisans of justice as impartiality think that not all forms of stability are morally justified. A conception of justice would be stable "for the right reasons" only if everyone agrees with the principles and spontaneously develops a constant and reflexive adhesion to these institutions, avoid the "normal tendencies to injustice" and are "willingly to give one another justice over time"¹²⁰.

In such a framework, stability is not important *at all costs*, even the potential cost of implementing a stable dictatorship. Mutual advantage theories would reply that a stable dictatorship is impossible because a society preserving important injustices has far fewer chances to be stable over time. But if we assume that some dictatorship could be indefinitely stable (which is very unlikely), the partisans of justice as impartiality argue that there would still be a moral argument against it. This intuition is underlined by Rawls:

Finding a stable conception is not simply a matter of avoiding futility. Rather, what counts is the kind of stability, the nature of the forces that secure it. The idea is that, given certain assumptions specifying a reasonable human psychology and the normal conditions of human life, those who grow up under just basic institutions – institutions that justice as fairness itself enjoins – acquire a reasoned and informed allegiance to those institutions sufficient to render them stable. Put another way: citizens' sense of justice, given their character and interests as formed by living under a just basic structure, is strong enough to resist the normal tendencies to injustice. Citizens act willingly to give one another justice over time. Stability is secured by sufficient motivation of the appropriate kind acquired under just institutions...

The problem of stability is not that of bringing others who reject a conception to share it, or to act in accordance with it, by workable sanctions...as if the task were to find ways to impose that conception once we are convinced it is sound. Rather, as a liberal political conception, justice as fairness is not reasonable in the first place unless it generates its own support in a suitable way by addressing each citizen's reason, as explained within its own framework¹²¹.

For Rawls, what is important from the point of view of a *liberal* theory of justice is the kind of stability that is in place. Institutions cannot be merely stable because of brute force. They need to nurture a sense of justice inside each citizen. People who grow up in these institutions should develop a voluntary, reasonable and informed allegiance to the principles that organize them so that it can secure their stability over time¹²².

This is a very important theoretical issue and I will not settle it here. Let me simply say that pursuing mutual advantage, given some reasonable empirical assumptions, could be sufficient to justify the kind of liberal stability that relies on a constant, voluntary and reflexive allegiance to institutions. It is also a sufficient reason to justify nurturing a sense of justice because, instrumentally, this is a powerful way to stabilize just institutions and cooperation over time. Therefore, it is rational for everyone to implement institutions nurturing a sense of justice inside each of their fellow citizens. Therefore, technically, the requirements of mutual advantage are the same as the one deriving from moral conceptions. Importantly, both conceptions lead to the requirement of stable public institutions. In fact, this is a good example of an overlapping consensus. Those who value justice and stability because of mutual advantage and those who value justice and stability because of moral reasons both agree that stability is important. The arguments in this chapter fit both conceptions.

¹²⁰ Rawls 2001: 185

¹²¹ Rawls 2001: 185-186

¹²² Rawls 2001: 124-125, 180-187; Freeman 2007: 243-283; O'Neill 2008: 42-48

2.2 – Why is WSC unable to avoid undesirable institutional complexity?

Egalitarian organizations are desirable because a Strong Welfare State Capitalism tolerating inegalitarian organizations and using redistributive taxation and other policies intensively to correct unjust inequalities creates problems for stability. The *first* problem is that it creates too much institutional complexity. Complex sets of policies aiming at correcting all injustices created by inegalitarian organizations lead to degrees of institutional complexity that threaten the stability of just institutions over time. Therefore, in order to avoid institutional complexity as much as possible, public institutions should get rid of inegalitarian organizations.

Welfare State Capitalism and institutional complexity

I will first consider the distribution of *purchasing power*. Large pretax income inequalities can create too much institutional complexity because of phenomena arising at both ends of the distributional spectrum. On the rich people's side, they realize that they would be far better off without paying so much in taxes. This has many consequences as we will see, but the first one is the creation of institutional complexity. Piketty underlines that one important effect of very high marginal tax rates on high incomes is to change the way people negotiate their rewards. If marginal top income tax rates are very high, there are fewer reasons to negotiate higher wages¹²³. But this does not mean that rich people simply give up on seeking more advantages. If prohibitive marginal tax rates are imposed on higher incomes, people can still try to avoid paying their fair share by negotiating for less direct income and more indirect tax-free benefits such as a company car. This can increase institutional complexity.

Public institutions can target specific corporate benefits that do not fall under regular income taxation and close loopholes that can be exploited by rich people to avoid paying their fair share. They can also design tax codes targeting less mobile economic factors such as consumption. But even if legal responses exist, there will always be ways to avoid the legal categories defined by the tax code¹²⁴. Many authors such as Piketty, Murphy or Kaplow have underlined this phenomenon. In most advanced countries, this game of “tax-me-if-you-can” has led to incredible degrees of complexity. Complex systems of rewards, pensions, corporate spending, stock options, etc., make taxation always more difficult and ask for more and more complicated fiscal regulations¹²⁵. As Kaplow underlines in the case of the USA:

There are many tools of tax enforcement – information-reporting requirements, audits (which may vary in probability, intensity, and selection criteria), and sting operations, among others – and a range of penalties that might be utilized. Moreover, different forms of noncompliance – failing to report cash income, excessive deductions, complex business manipulations such as may arise with transfer pricing – raise diverse problems¹²⁶.

On the poor people's side, pretax income inequalities also create institutional complexity. Economic and social inequalities create many economic, social and psychological problems for the poorest people. This is due to the clustering effect of disadvantage¹²⁷. Inequalities and poverty increase the need for specific programs targeting the daily problems faced by the least well-off such as access to education housing and child care, criminality, teen pregnancy,

¹²³ By contrast, a strong decrease of marginal top income tax rates changes the way top managers are rewarded and provides a stronger incentive to ask for very high incomes (Piketty 2013: 532-533, 815, 823-824).

¹²⁴ Murphy & al. 2012: 21

¹²⁵ This is true in France (Landais, Piketty & Saez 2011: 7, 111-112) and in the USA (Kaplow 1996: 135; Weinstein 2014: 2) but in many other developed countries as well (Murphy & al. 2012: 21).

¹²⁶ Kaplow 1996: 144

¹²⁷ Wolf & De-Shalit 2007: 119-155; Daniels 2008: 61, 79-88. Cf. Chapter 3

health problems, mental illness, the use of drugs and so on¹²⁸. In order to adapt social security systems to the needs of each person and all the social problems deriving from material and status inequalities, public authorities always need to add new layers of contributions, targeted allowances, tax incentives and social programs. Piketty underlines this problem:

Le véritable problème est l'absence de cohérence entre ces différentes mesures et le peu d'attention accordée aux problèmes pratiques de simplification administrative. À l'instar de notre système fiscal, notre système de transferts est un empilement de dispositifs d'une grande complexité, illisible et coûteux dans son fonctionnement, tant pour les personnes que pour l'administration elle-même¹²⁹.

Therefore, in order to correct each specific injustice created by pretax inequalities and poverty, tax laws and social programs often become very complex. Piketty and his colleagues denounce this reality in the case of France, but the same situation of extreme institutional and fiscal complexity can be observed in most advanced countries¹³⁰.

Institutional complexity also arises in the case of the distribution of protection *from domination*. In an egalitarian organization, workers already have formal decision-making power over important decisions and it is clear that they are in charge¹³¹. By contrast, in Welfare State Capitalism, inequalitarian organizations are tolerated and unions thus need to counter-balance the power of owners and managers to protect workers from domination. This requires public intervention to regulate firms, unions and negotiation processes.

The problem, as I already underlined, is that unions draw their power from the fact that they are the only ones able to calm down social turmoil when workers are tired of bad working conditions. But the better they are at calming the turmoil, the less they have power because the threat of worker revolt diminishes¹³². Moreover, the more unions use their power, the less they are approved by the population, which makes the decision to use their power a difficult strategic choice¹³³. Finally, unions tend to become large bureaucracies that are very costly and difficult to manage. As I said, unions only provide workers with some power over a limited set of decisions, force them to enter large union structures with workers they often don't know in order to negotiate with managers they don't elect, under the risk of delocalization. The decision-making process in such a system is thus less direct and more complex.

Why does institutional complexity lead to instability?

The most important threat that institutional complexity creates for the stability of just institutions concerns the democratic principle of *publicity*. The more complex institutional systems become, the less able citizens are to make informed judgments about public decisions. This is a very serious problem for the stability of just institutions. In addition to *publicity* problems, institutional complexity creates at least two other problems for stability: it is *costly* and it makes fiscal systems more *regressive*.

i. The publicity argument: In a just, democratic and well-ordered society, all citizens need to be able to understand how social institutions are working, to understand the reasons why these institutions are working that way, and to evaluate their efficiency in reaching democratic

¹²⁸ Wilkinson & Pickett 2010: 18-24

¹²⁹ Landais, Piketty & Saez 2011: 111-112

¹³⁰ Landais, Piketty & Saez 2011: 7, 111-112; Kaplow 1996: 135; Weinstein 2014: 2; Murphy & al. 2012: 1-21

¹³¹ Malleson 2014 : xiv, xvi, 1, 27-49, 77-80

¹³² Scott 2012: 21

¹³³ Rouillard 1991: 277, 291- 295, 305 (I will emphasize this in the following sections).

goals. For Rawls, in a well-ordered society governed by a common conception of justice, there must be a public agreement on what is just or unjust. Principles of justice must be applied to the *public* set of rules that constitutes the basic structure. But an institution is public only if each member knows its rules as if these rules are the result of a public agreement:

In saying that an institution, and therefore the basic structure of society, is a public system of rules, I mean then that everyone engaged in it knows what he would know if these rules and his participation in the activity they define were the result of an agreement. A person taking part in an institution knows what the rules demand of him and of the others. He also knows that the others know this and that they know that he knows this, and so on... The publicity of the rules of an institution insures that those engaged in it know what limitations on conduct to expect of one another and what kinds of actions are permissible. There is a common basis for determining mutual expectations. Moreover, in a well-ordered society, one effectively regulated by a shared conception of justice, there is also a public understanding as to what is just and unjust¹³⁴.

Public authorities establish public rules acceptable by all citizens so that everyone can “abstract from the enormous complexities of the innumerable transactions of daily life and frees us from having to keep track of the changing relative positions of particular individuals”¹³⁵. This is important to relieve everyone from the burden of evaluating each of their daily decisions, but also to make sure that everyone understands the reasons for the rules. Rawls insists: “a public conception of justice needs clear, simple and intelligible rules”¹³⁶.

If the members of a society are unsure about how much everyone else pays for public services or are even unsure about the value of the services they receive in return for their taxes, they can neither trust each other nor can they make an informed judgment about the value of social rules. Once again, Piketty makes the following observation about French taxation:

Tout le monde en convient: la fiscalité française est asphyxiée par sa complexité et par sa faible progressivité réelle, qui menacent de rompre le lien de confiance entre les citoyens et l'impôt. Chacun suspecte son voisin de mieux tirer parti que lui du système en vigueur. Et chacun soupçonne – avec raison – les plus aisés de s'en sortir mieux que tout le monde, ce qui rend très difficile l'acceptation des réformes et des efforts à partager. Le problème aujourd'hui n'est ni de réduire ni d'augmenter les impôts. Il s'agit bien plutôt de les remettre à plat, de mieux les répartir, de les rendre plus simples, plus équitables et plus lisibles¹³⁷... l'extrême complexité de nos systèmes fiscaux fait qu'il est souvent difficile de se mettre d'accord sur le fait de savoir qui paie quoi¹³⁸.

This problem mainly concerns the distribution of purchasing power but it is also true for the distribution of *protection from domination*. If labor laws and processes of collective bargaining such as litigations and strikes are too complex, the public might turn its back against unions and workers themselves might not see the benefits of being represented by unions. This is already happening in our societies. For Piketty, this threatens stability: “une telle réalité menace potentiellement la cohésion sociale du pays et, en tout état de cause, rend très difficile l'acceptation d'efforts partagés et de projets communs”¹³⁹.

ii. The “costs” argument: To begin, the more complicated fiscal and social systems become, the more costly their management will become. This is problematic for stability as

¹³⁴ Rawls 1971: 55-56. See also: Gosseries 2005

¹³⁵ Rawls 2001: 54

¹³⁶ Rawls 2001: 54. See also: Gosseries 2005

¹³⁷ Landais, Piketty & Saez 2011: 7

¹³⁸ Landais, Piketty & Saez 2011: 31

¹³⁹ Landais, Piketty & Saez 2011: 55. See also: Murphy & al. 2012: 1-21

increasingly *costly* systems are more difficult to maintain over time because of political and economic feasibility constraints. This is true for *purchasing power*. Piketty and his colleagues underline how costly a big and complex fiscal system can be¹⁴⁰. As Kaplow underlines in the case of the USA, “much criticism of income taxes involves administration: the enormous complexity of the system is responsible for large compliance costs, public and private, and the tax gap is large despite substantial resources devoted to enforcement”¹⁴¹. Tax authorities need to hire public servants, collect information, fight against tax avoidance and evasion, implement transfer programs, and enforce the law and so on. As Kaplow underlines:

A tax system may be complex and thus involve greater compliance costs for many reasons and in many ways. For present purposes, I shall focus on one important source of compliance costs: those arising from the need to make the tax base more accurately reflect taxpayers’ relative taxpaying ability. Such compliance costs may arise on account of more complex rules, for example, rules that attempt to distinguish more precisely between deductible business expenses and nondeductible personal expenses, or rules that include a range of fringe benefits in income¹⁴².

The same is true for the distribution of *protection from domination*. Managing large organizations such as the ones many unions have become, securing a strike reserve fund and organizing the assistance provided to workers (such as legal counsel and support in litigations and negotiations) is costly¹⁴³. It is also true for *self-governing capacities* and *self-respect*. The more inegalitarian organizations undermine the development of self-governing capacities or self-respect, the more institutions need to implement costly compensating policies¹⁴⁴.

If the argument was strictly based on the costs of social programs, we would need to compare the cost of these programs with the potential economics costs related to the promotion of egalitarian organizations. I will show later that a System of egalitarian organizations would not necessarily be inefficient, but the possibility of an economic shrinking would weaken this second argument. The real argument here is rather that the mere perception that welfare systems are costly to manage is sufficient to create political feasibility constraints.

iii. The regressivity argument: A third problem created by complexity affects mainly the redistribution of purchasing power, i.e. the redistribution of income and capital through taxation. In recent years, the tax systems of most developed countries have become more *regressive*. There are many reasons explaining this tendency but one reason is complexity. Therefore, even if the intent of the legislator is to create a progressive income tax system, increasing complexity might threaten the perpetuation of its progressive aspect over time.

Piketty is again among the strong advocates of simplification. He explains, in the case of France, how complexity can make tax systems more regressive¹⁴⁵. Tax complexity leads to the emergence of loopholes that allow rich people to avoid paying their fair share of taxes. Rich individuals or corporations can benefit from these loopholes not only because they got money to hide but also because they can afford the counsel of fiscal lawyers and accountants

¹⁴⁰ Landais & al. 2011: 106, 111-113. Reducing pre-tax inequality avoids heavy bureaucracies (Wilkinson & Pickett 2010: 247). Programs with conditionality and targeting are often very costly (Benhassine & al. 2013: 2)

¹⁴¹ Kaplow 1996 : 135

¹⁴² Kaplow 1996: 138. Of course, there are other complexities: “Some complexity arises from poor rule writing, which involves a pure waste. Other complexity arises from rules that consciously deviate from tax principles in order to subsidize certain activities and groups (R&D, farmers and homeowners)” (Kaplow 1996: 138).

¹⁴³ To give only one example, the AFL-CIO, the biggest trade union federation in the US spends close to 200 million dollars annually to carry on their activities (<https://www.dol.gov/olms/>, US Department of Labor, Office of Labor-Management Standards. File number 000-106)

¹⁴⁴ Public institutions could implement training programs for workers for instance. Cf. Chapter 5, Section 1.3

¹⁴⁵ Landais, Piketty & Saez 2011: 48-54, Murphy & al. 2012 : 1-21

to help them navigate the complex web of laws and regulations. By contrast, tax laws are often too complex to understand for anyone else, including poor people. Not only poor people don't have access to the loopholes used by the rich but they often ignore how to take advantage of the transfers and social programs they are entitled to. Piketty takes the example of the "revenu de solidarité active" (RSA) in France to illustrate this point:

Le véritable problème est l'absence de cohérence entre ces différentes mesures et le peu d'attention accordée aux problèmes pratiques de simplification administrative. À l'instar de notre système fiscal, notre système de transferts est un empilement de dispositifs d'une grande complexité, illisible et coûteux dans son fonctionnement, tant pour les personnes que pour l'administration elle-même. Ainsi, de nombreuses personnes démunies – surtout parmi celles qui travaillent de manière intermittente – qui seraient aujourd'hui éligibles pour le RSA ne le touchent pas, soit parce qu'elles ne connaissent pas leurs droits, soit parce qu'elles sont rebutées par les démarches relativement lourdes de candidature et de suivi¹⁴⁶.

This situation exists in most developed countries. Take the case of the United States. Paul Weinstein JR of the Progressive Policy Institute has led an important policy report undertaking a unique examination and comparison of the complexity of all 50 US state tax systems and the District of Columbia. One of the three main conclusions and recommendations was the following: "Reducing complexity through the elimination of tax expenditures can finance lower tax rates and also increase fairness (progressivity) because their benefits mostly go to higher income individuals and businesses"¹⁴⁷. Therefore, complexity threatens the stability of tax systems' redistributive function.

WSC always creates institutional complexity

Instead of promoting egalitarian organizations, it could be easier to reduce the complexity of fiscal and social systems. Piketty is a strong advocate of fiscal simplification. He published a comprehensive analysis of France's fiscal system which includes an ambitious proposal of fiscal revolution. He proposes to individualize taxation, to tax incomes at the source, to equalize the tax rates on all types of income (work or capital income), to use one single tax system to replace most of other taxes and contributions, to abolish expenditures, credits and so on¹⁴⁸. Other authors such as Philippe Van Parijs propose to simplify transfers by replacing many allowances and social security programs by a universal basic income, thus avoiding supervision costs, means-testing, and stigmatization of beneficiaries¹⁴⁹. Certainly, these propositions are very important and help to simplify tax-and-transfer systems.

However, any system tolerating inegalitarian organizations keeps the need for compensations. In a system tolerating inegalitarian organizations which create inequalities of income, capital, power and so on, public institutions will always remain very complex: complex systems of tax monitoring will always be required to limit tax avoidance and manage redistribution, complex systems of transfers would still be needed in addition to a basic income in order to target all the ways in poverty affect our life, and complex collective bargaining institutions such as large union federations would still be required to balance power inequalities in the economic sphere¹⁵⁰. For instance, as long as firm owners keep the power to take decisions about investments, this will require public institutions to design a tax code that avoids disincentives to invest. This is one reason why OECD experts think that "redistribution

¹⁴⁶ Landais, Piketty & Saez 2011: 112. I repeat the first half of this quote it here to understand the second half.

¹⁴⁷ Weinstein 2014: 2. On how regressive the US tax system has become, see: Hacker & Pierson 2010 : 41-72

¹⁴⁸ This would simplify the fiscal system Landais, Piketty & Saez 2011: 7-8, 116)

¹⁴⁹ Van Parijs 1995: 95, 120, 259; Schemmel 2015: 397-401

¹⁵⁰ De Wispaelare & Morales (2015: 4-10) underline that even a basic income, the simplest form of redistribution available, still raises many stability problems including the complexity of implementation.

strategies based on government transfers and taxes alone would be neither effective nor financially sustainable... there may be counter-productive disincentive effects if benefit and tax reforms are not well designed”¹⁵¹. The inequalities created by inegalitarian organizations will always lead to institutional complexity. Therefore, public institutions should go further and reduce inequalities of all social primary goods within organizations in order to minimize complexity. Even if the *costs* can be reduced and the *progressivity* of tax systems can be somehow maintained, institutional complexity will continue to threaten *publicity* and will, therefore, threaten the stability of just institutions.

This is why promoting egalitarian organizations and getting rid of all inegalitarian ones is the most effective way to reduce institutional complexity and thus to secure the stability of just institutions over time. Egalitarian organizations create less inequality of all social primary goods and, therefore, there is less of a need for complex correcting mechanisms¹⁵².

Therefore, the empirical evidence tends to suggest that $\neg A$: a Strong Welfare State Capitalism, *even its strongest version*, is insufficient to realize all the requirements of justice *in a stable way*. Public institutions should get rid of inegalitarian organizations because (a.) redistributive mechanisms aimed at correcting the inequalities created by inegalitarian organizations create too much institutional complexity. Therefore, inegalitarian organizations and intensive reliance on correcting mechanisms should be rejected.

2.3 – Why is WSC unable to avoid undesirable incentives?

Egalitarian organizations are desirable because a Strong Welfare State Capitalism tolerating inegalitarian organizations and using redistributive taxation and other policies intensively to correct unjust inequalities creates problems for stability. A *second* problem is that it creates undesirable incentives. Policies aiming at correcting injustices and inegalitarian organizations themselves create incentives that threaten the stability of just institutions. Therefore, in order to avoid such incentives, public institutions should get rid of inegalitarian organizations.

Welfare State Capitalism, institutional design, and incentives

The way institutions are structured influences the behavior of individuals. It creates various kinds of incentives for different groups in society. As Rawls underlines:

the social system shapes the wants and aspirations that its citizens come to have. It determines in part the sort of persons they want to be as well as the sort of persons they are. Thus an economic system is not only an institutional device for satisfying existing wants and needs but a way of creating and fashioning wants in the future¹⁵³.

For many reasons some incentives can strengthen, or threaten the stability of just institutions. Rawls and many other liberal egalitarians are well aware of this issue. Van Parijs underlines the importance of a “motivation-conscious institutional engineering”:

there is a wide range of other ways in which the choice of institutions can affect people’s motivation and behavior in daily life, and the consequence of this influence for the lifelong prospects of the worst off need to be factored in when assessing whether a particular combination of institutions constitutes a just basic structure¹⁵⁴.

¹⁵¹ OECD 2011: 40-41

¹⁵² I will show that egalitarian organizations can deliver these outcomes in Chapter 6.

¹⁵³ Rawls 1971: 259

¹⁵⁴ Van Parijs, in Freeman 2003: 230

Therefore, while public institutions should avoid perfectionist views about which intrinsic motivations individuals should develop, they should design the socio-economic system while bearing in mind that institutions have a powerful influence on individual behaviors. Public institutions should, therefore, influence the behaviors of people and avoid tolerating all kinds of egoistic motivations. According to Van Parijs, without overstepping the constraints imposed by the two principles of justice, public institutions “should not shy away from resolutely designing institutions that foster an ethos of solidarity, of work, of patriotism – not of course because for the intrinsic goodness of a life inspired by such an ethos but because of its crucial instrumental value in the service of boosting the lifelong prospects of the incumbents of society’s worst position”¹⁵⁵. He mentions several examples: legal rules regarding urban planning, health care provision or trade unions may or may not foster solidarity and nurture different expectations or counteract segregation between groups.

Why does Welfare State Capitalism lead to undesirable incentives?

I will focus on how inegalitarian institutions can lead to *class warfare*, the development of *expensive tastes* and extreme forms of *competition*, all of which creates undesirable incentives. These incentives ultimately threaten the stability of just institutions

i. The “class warfare” argument: In a System of egalitarian organizations, there would be less inequality in the first place and no one would be far better-off without redistributive mechanisms. Therefore, no one would have the desire to disrupt welfare systems. By contrast, in a system tolerating inegalitarian organizations, people occupying the most advantaged social positions, attached in the first place with more purchasing power and more decision-making power, have an objective interest in disrupting welfare programs and unions. This can lead to what is called “class warfare”. This is an old argument. In his *Considerations on Representative Government*, John Stuart Mill is very clear about this danger:

One of the greatest dangers of democracy lies in the sinister interests of the holders of power: it is the dangers of class legislation; of governments indented for (whether really effecting it or not) the immediate benefit of the dominant class, to the lasting detriment of the whole¹⁵⁶.

Joseph Carens develops this argument a bit further in *Equality, Moral Incentives, and the Market*. He analyzes a utopian society that would be organized as a perfect capitalist market society, supposed to be the most efficient socio-economic system, but in which all incomes are taxed and redistributed equally among all. He supposes individuals are motivated simply by moral incentives to be productive and compete for more important positions. They want to be useful for society and to get social recognition for that. When he analyzes the possibility of such a utopian society, one of the most powerful objections he raises is the following. The whole system relies on the assumption that the elite effectively in charge of laws or simply influencing policies will remain guided by a concern for social justice and equality¹⁵⁷.

He thinks that a system in which very unequal social positions remain, not only in term of pre-tax income but also in terms of decision-making power and networks between the elite (politicians, lawyers, CEOs), creates a major problem for stability. It creates a class of people knowing each other and having an objective class interest to disrupt the Welfare State and to convince people that more inequalities are acceptable, required or deserved. Not only does this elite has an objective interest in disrupting the social system, but it also has the means to

¹⁵⁵ Van Parijs, in Freeman 2003: 231

¹⁵⁶ Mill [1861]

¹⁵⁷ Carens 1981: 138-145

do so since they have the most powerful, influential and well-regarded social positions. Therefore, they have a strong incentive to influence legislation to their advantage and to disrupt the social programs or institutions redistributing social primary goods¹⁵⁸:

the key point is that only a small number of people could be directly involved in formulating the tax laws on any system, including the egalitarian system. Now suppose that the lawmakers in the egalitarian system earned pre-tax incomes which were well above the average pre-tax income... Moreover, assume that most of their personal contacts were with other people who were earning pre-tax incomes well above the average (lawyers, high-level administrators, business executives, and the like)...if inequalities were permitted in the distribution of after-tax income, the lawmakers and their friends and associates would all enjoy more income-consumption satisfaction. Therefore, even if one began with a set of laws that fulfilled the goals of the egalitarian system, why would the lawmakers not change the rules to permit inequalities in distribution? They could do this covertly by relaxing the definition of business expenses and permissible forms of savings or overtly by directly and explicitly modifying the redistributive goals of tax laws¹⁵⁹.

Fleurbaey also underlines this problem. He criticizes some forms of market socialism on this ground because they would let administrators invest collectively-owned money and decide on wage incentives. For him, in such a system, managers would have an interest in reintroducing capitalism mechanisms that would threaten the stability of market socialism: “the stability of the property arrangements of market socialist models is uncertain because the ruling class of managers would have very strong incentives to push toward the restoration of capitalism”¹⁶⁰.

In a society in which inegalitarian organizations are tolerated, a class of the population would always have an objective interest in disrupting the welfare system and would have the resources and the network to do so. The reason is that, as I showed earlier, redistributive taxation and unions do not change the structure of economic organizations do not target the inequalities in decision-making and status, and do not break the networks of privilege people. Redistributive policies such as a basic income can overcome many problems raised by redistributive taxation (such as the stigmatization of beneficiaries and institutional complexity), and international tax cooperation can mitigate the problems raised by tax competition (with harmonization or information exchanges). Yet, such policies do not change the fact that in Welfare State Capitalism, some people are already in social positions in which they can easily imagine benefiting from lobbying against all welfare programs.

Not only is the just redistribution of income and capital jeopardized on the long run, but this situation demonstrates that Welfare State Capitalism keeps the least well-off in a permanent situation of domination by the most advantaged. They are always vulnerable because the rich can lobby to change the social system and thus cut their benefits. This tendency is already observed in contemporary societies. Rich people do not shy away from using their money to lobby politicians, influence policies and weaken the mechanisms that affect pre-tax or after-tax income as well as unions and others welfare policies¹⁶¹. Wealthy people also try to avoid tax regulations or to reduce social protections by criticizing redistribution, unions, and the funding of public schools and universities. They threaten to shift their money abroad as soon

¹⁵⁸ Carens 1981: 138-145

¹⁵⁹ Carens 1981: 138-139

¹⁶⁰ Fleurbaey 1993: 217. Some authors have argued in favor of market socialism (Schemmel 2015: 403-404) or corporatist systems (Hussain 2009: 412-415) on the basis that they were more stable than Welfare State Capitalism. But market socialism is probably unnecessarily intrusive (as Fleurbaey underlines) and corporatist systems remain subject to objections such as of not distributing enough protection from domination. The latter are also complex and vulnerable to the same problematic incentives I mention here. I think these two alternatives are vulnerable to the same stability objection than Welfare State Capitalism. Cf. Chapter 6

¹⁶¹ Hacker & Pierson 2010; Wilkinson & Pickett 2010 : 255; Stiglitz 2012: 181-212; Gilens & Page 2014

as public institutions try to tax them¹⁶². As I said earlier, this is one reason why OECD experts say that “redistribution strategies based on government transfers and taxes alone would be neither effective nor financially sustainable”: taxes create problematic incentives which force most states to operate under a reduced fiscal space¹⁶³. This argument shows the limits of redistribution, even its most radical forms of it such as a universal basic income. This is not a stable way for institutions to realize distributive justice¹⁶⁴.

ii. *The “expensive tastes” argument*: In addition to the fact that some people might not be compliant and will try to disrupt social systems, inegalitarian institutions can create another problem. They tend to push some people to develop more expensive tastes and to be in positions to ask for expensive compensations. On the long run, this can reduce the capacity of the system as a whole to maximize the situation of the least well-off.

This is another justification for motivation-conscious institutional engineering. The way institutions are designed changes the amount of money required to incentivize people to do work at maximizing the situation of the least well-off. As Rawls says, again:

Thus an economic system is not only an institutional device for satisfying existing wants and needs but a way of creating and fashioning wants in the future. How men work together now to satisfy their present desires affects the desires they will have later on, the kind of persons they will be. These matters are, of course, perfectly obvious and have always been recognized¹⁶⁵.

One interpretation of this argument is the one made by G.A. Cohen. According to him, every individual, not only public institutions, should aim at respecting the difference principle. Individuals should be morally required to act in their everyday life in a way that helps to maximize the prospects of the least well-off, for instance by choosing the most productive jobs and by avoiding to develop expensive tastes and to ask for expensive compensations¹⁶⁶. Surely, if people would adopt such a conception of the good life, the least well-off would enjoy greater prospects. The problem with this version of the argument is that, as I have underlined earlier, there are good reasons to think that individuals cannot realize justice on their own and need to act through public institutions which have democratic legitimacy, coordination capacities and are more stable. Rawls argues for an institutional conception of justice and a division of moral labor between institutions and individuals¹⁶⁷.

Another interpretation of the expensive taste argument is more compelling. This argument underlines that institutional arrangement can modify individuals’ motivations and reduce the inequalities required to motivate people to work. This would help to raise the share of the least well-off¹⁶⁸. Of course, public institutions could educate people to make sure that they are motivated by the realization of justice itself and develop a desire to work for less income so that more income is distributed to the least well-off. In such a society, there would be more money available to the least well-off, either because tax policies would be able to redistribute more to the least well-off without threatening incentives to work and investment, or because

¹⁶² Van Parijs, in Freeman 2003: 226-227; Murphy & al. 2012 : 1-21; Dietsch 2015 : 3-5, 15-21, 31-62

¹⁶³ OECD 2011: 40-41

¹⁶⁴ As De Wispelaere and Morales (2015: 4-10) underline that the stability of basic income is a serious issue: “The most obvious immediate threat to basic income’s political resilience is when a current government faces new circumstances...or a newly elected government decides to legislate against basic income in favour of more selective welfare programmes”. They also mention the problems of policy layering, conversion and purposeful inaction.

¹⁶⁵ Rawls 1971: 259

¹⁶⁶ Cohen 2008: 68-69

¹⁶⁷ Rawls 1971: 111-112; 2001: 12-15, 32, 54; Van Parijs, in Freeman 2003 : 226-231, Freeman 2007: 120-125

¹⁶⁸ Van Parijs, in Freeman 2003: 226-231

more money would be distributed directly to less advantaged social positions in the form of higher wages because top managers would ask for lower wages. Yet, the problem with this interpretation is that people have other motivations in their life than realizing justice and may disagree about what is the legitimate or sufficient level of “quality of life”. Therefore, even if education can inculcate to people a sense of justice and sacrifice for the least well-off to some extent, there are practical and ethical limits to motivation-shaping within a liberal society.

I will follow a different line of argument. Modifying the structure of organizations can also reduce the incentives required to motivate people to work. Here, more research would be required to confirm this claim empirically. Yet, the evidence tends to show that one important organizational feature influencing individuals’ motivations to work is the division of labor. Contrary to egalitarian organizations, inegalitarian organizations create a pyramidal structure in which very few people have an important purchasing power and decision-making power and a lot of positions are associated with fewer rewards and repetitive and menial tasks¹⁶⁹. This could increase the inequalities required to motivate people to work in two main ways.

First, authoritarian and pyramidal structures make top management alone responsible for important decisions. This requires higher compensations to incentivize people to accept management jobs and to take the responsibility to lead the firm. Moreover, more work and more responsibilities are associated with more stress, more preoccupations outside working hours and so on. In order to provide top managers with enough energy and resting time, despite their terrible schedules, they might need more money to make the most of their limited free time. This creates a need for higher compensations. By contrast, in a firm in which work is divided in a more egalitarian way, in which workers elect top managers for limited terms, and in which all workers share the burden of management tasks by delegating more responsibilities to lower levels and making everyone participate in difficult decisions and bear the responsibility of the outcomes, the same difficult tasks can be achieved while avoiding the need for important wage gaps within the firm. For instance, instead of paying one manager one million Euros, there could be ten elected managers paid 100 000 Euros, with fewer responsibilities and democratic decision-making processes delegating decisions to workers.

This is the case in large cooperatives such as Mondragon. Today, the income ratio between the highest paid job and the lowest paid job among members is 6:1. This helps to attract good managers in a competitive environment. Yet, even if top managers are paid far less than top managers in regular firms, very few managers leave each year for other firms¹⁷⁰. This is partly because people value things other than income, such as good working conditions, and because managers come up through the cooperative and share its values. But this might also be because tasks are better distributed and all workers ultimately share responsibilities.

Second, a society in which inegalitarian organizations are tolerated creates a class of top managers. This social class can develop specific preferences and social habits leading each of its members to compete according to these cultural norms. In order to get opportunities and social recognition within the world of top managers, people need to live a lifestyle increasingly expensive (involving, for instance, expensive clothes, restaurants, and social events). Ostentatious consumption leads managers to ask for higher compensation in order to keep up to these living standards. And this leads competing firms to raise the compensations of top managers in order to attract the best ones on their board. Piketty believes that this phenomenon is one important factor explaining the rise of top management compensations in

¹⁶⁹ Young 2006: 92-94

¹⁷⁰ Whyte & Whyte 1991: 44-45. See also: Ferretti 2015

Anglo-Saxon countries lately, and more recently in other developed countries¹⁷¹. By contrast, if organizations are designed in a way that flattens the pyramid of occupations and the division of labor within organizations, this would mitigate the problem and reduce the level of incentives required to attract good people in top management positions¹⁷².

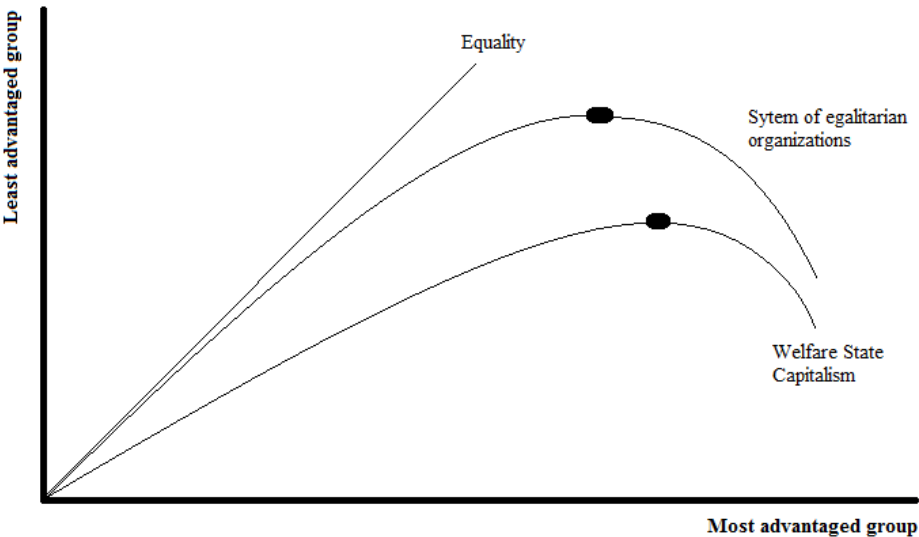
Therefore, even if it was possible to design a form of Welfare State Capitalism that would, at some given point in time, maximize the situation of the least well-off, the structure of inegalitarian organizations could lead top managers to develop more and more expensive tastes and to ask for higher compensations which would gradually harm the least well-off.

Table 12

Table 12 illustrates two systems with different designs, affecting differently the preferences of the most advantaged group, and the possible maximin that follows.

We assume that equality in the distribution of goods would not incentivize people to work enough (the line is only there as a reference). The origin of both curves is a situation of equality, but we assume that some inequalities are required to motivate people to work harder, and thus to maximize the situation of the least well-off. Following one curve or the other, inequalities can contribute to the situation of the least well-off, but only up to a certain point, above which inequalities start to disadvantage them. As Rawls says (2001 : 63): “Other things being equal, the difference principle directs society to aim at the highest point on the... curve of the most effectively designed scheme of cooperation”.

Because institutional designs can influence individuals’ preferences, the level of inequalities required in each system to motivate the most advantaged to work can be different, in which case the maximin will be different. In the institutional context of a System of egalitarian organizations, the most advantaged group would have less expensive preferences because the division of labor would be flatter and the most advantaged group would be socialized in a more egalitarian context. This would reduce the inequalities required to motivate them to work and would raise the maximin. By contrast, in the context of Welfare State Capitalism, which tolerates inegalitarian organizations, the most advantaged group would ask for higher compensations. Therefore, the least advantaged would end up in a worse position.



¹⁷¹ Piketty 2013: 497-533. See also: Stiglitz 2012: 106-116; Malleson 2014: 76-80. Pettit and Brenann (2000: 79) also point out the effect of the competition for esteem on the behavior of individuals. More pyramidal social structures trigger of course more competition since esteem is in limited supply and high demand.

¹⁷² Van Parijs, in Freeman 2003: 226-231; Freeman 2007: 120-125

iii. *The “competition” argument*: In addition to the “class warfare” and the “expensive taste” arguments, inegalitarian organizations create a third problem because they lead to extreme forms of competition. Any plausible socio-economic system must take advantage of some level of competition in order to foster emulation and motivate people to be productive and to innovate. However, because inegalitarian organizations create few very advantageous social positions, they can create extreme forms of competition. This can create incentives for people to adopt different kinds of irresponsible behaviors to achieve their ends. These irresponsible behaviors can threaten the stability of just institutions. I will give two examples.

First, inegalitarian organizations can lead to irresponsible behaviors affecting the stability of *distributive justice*. They create very few well rewarding positions and a lot of low rewarding positions. But higher inequalities raise the stakes of winning or losing. Therefore, inegalitarian organizations create powerful incentives to use whatever means is available to compete, including engaging in legal but riskier behaviors or even illegal behaviors.

Competition can lead to *legal* but *risky* behaviors. In the case of production, managers looking for promotions will tend to respect only the minimum requirements of labor law in order to be able to produce more value for shareholders. This could affect the standards of living of lower paid workers over time¹⁷³. In the case of financial institutions, ordinary people can decide to engage in more risky gambles. Banks, traders and financial operatives seeking high bonuses can flirt with the lowest admissible standards when creating risky financial schemes. Governments competing for economic growth can also engage in a race to the bottom in financial regulation. Sinn, Piketty, and many others underline how such incentives had a very important role in the financial crisis of 2008. This is, therefore, a direct threat to the stability of economic institutions and thus to our capacity to maximize the situation of the least well-off over time¹⁷⁴. The US President Barak Obama underlined that the way capitalist firms and financial institutions are organized creates incentives for giving up on social responsibility:

If you had a corporate culture that felt a sense of place and commitment so that the CEO was in Pittsburgh or was in Detroit and felt obliged, partly because of social pressure but partly because they felt a real affinity toward the community, to re-invest in that community and to be seen as a good corporate citizen. Today what you have is quarterly earnings reports, compensation levels for CEOs that are tied directly to those quarterly earnings. You’ve got international capital that is demanding maximizing short-term profits¹⁷⁵.

Yvan Allaire also underlines that such structural problems were a contributing factor to the financial crisis of 2008. According to him, the fact that firms’ shares can be held for very short periods of time and that managers can stay on firms’ boards for very short periods as well incentivizes shareholders and managers to take decisions based on short-term objectives and often to engage in more risky and irresponsible behaviors¹⁷⁶.

Competition can even affect our commitment to basic ethical sensitivity. In a recent study published in *Science*, researchers provide empirical evidence that the more market interactions become competitive, the less value people give to the harm done to third parties:

The possibility that market interaction may erode moral values is a long-standing, but controversial, hypothesis in the social sciences, ethics, and philosophy... We present controlled experimental evidence on how market interaction changes how human subjects

¹⁷³ There are many examples such as the one reported in this article about the organized fear in big corporations like Amazon: http://www.liberation.fr/economie/2013/12/17/une-employee-d-amazon-raconte-la-peur-organisee_967185

¹⁷⁴ Sinn 2010: 46, 94-102, 158, Piketty 2009: 53

¹⁷⁵ For Obama, such incentive mechanisms and such competition for capital are problematic (see: Klein 2015).

¹⁷⁶ Bérubé 2011a; 2011b

value harm and damage done to third parties. In the experiment, subjects decide between either saving the life of a mouse or receiving money. We compare individual decisions to those made in a bilateral and a multilateral market. In both markets, the willingness to kill the mouse is substantially higher than in individual decisions. Furthermore, in the multilateral market, prices for life deteriorate tremendously¹⁷⁷.

Competition can also lead to *illegal* behaviors, such as corruption and outright fraud. This is the case in very unequal societies such as developing countries, in which standards of living are very low even for officials¹⁷⁸. But this is also the case in more developed societies in which there are regular government corruption scandals and corporate fraud or illegal behaviors. Corruption and fraud are not caused by “bad apples” but by institutional structures creating incentives for people to corrupt the system and to break the rules for individual advancement. Competition is one important factor leading people to engage in illegal activities. It is also an important factor leading international corporations to avoid regulations and use tax avoidance and tax evasion schemes in order to reduce their tax burden and remain competitive against other firms¹⁷⁹. Piketty claims that asymmetries in the way managers and traders are rewarded can incentivize financial risk-taking and fraud¹⁸⁰. For Elster, “a large monetary prize for winning a race will set up an incentive to practice hard and an incentive to trip up the competition”¹⁸¹. Rewards, punishments, and competition push people to cheat and commit fraud in order to reach their ends. Heath provides a good example of this:

Attitude surveys also show that respondents in the United States regard executives who allow their firm to sell a drug with undisclosed harmful side-effects as having committed a serious criminal offence, second only to murder and rape in severity... However, when management and executive training students were put in a role-playing scenario (as members of a corporate board...), 79 percent chose the “highly irresponsible” option, of not only continuing with sales of the drug, but also taking action to prevent government regulation. The other 21 percent chose to continue selling the drug for as long as possible... Not one group chose the “socially responsible” action of voluntarily withdrawing the drug from the market... These results were obtained from ninety-one different trials of the experiment in ten different countries¹⁸².

Confiscatory marginal income tax rates could discourage some of these behaviors by limiting the incentives of engaging in such irresponsible behaviors. But even if problematic incentives due to inequalities in purchasing power can be mitigated to a certain extent, the same problems are created by competition for more powerful and well-regarded positions. The simple fact that there is a competition for a given social position is enough to trigger social recognition and envy. The best example of this is academia. Competition for tenure jobs, publication, citation etc., incentivizes people to compete on quantitative criteria and to use whatever means they can to navigate their way to important academic positions. Not only this can lead academic institutions to compete on criteria that have little to do with real academic excellence, but this can also lead academics to use dubious methods, including downright corruption of the academic system. To give only one example, Scott mentions the possibility for academics to create circles of friends taking the engagement of citing each other as much as possible in their articles even when this is not required, in order to get more citations¹⁸³.

¹⁷⁷ Falk & Szech 2013: 707 (In multilateral markets, the competition is higher)

¹⁷⁸ The UN underlies in the *Global Compact* that corruption is facilitated in countries in which inequalities and poverty are very high: <https://www.unglobalcompact.org/what-is-gc/our-work/governance/anti-corruption>

¹⁷⁹ On how institutions can lead people to evade or avoid taxation, see: Van Parijs, in Freeman 2003: 226-227; Murphy & al. 2012: 1-21; Dietsch 2015: 3-5, 15-21, 31-62

¹⁸⁰ Piketty 2009: 53

¹⁸¹ Elster 2013: 270. He also thinks incentive based institutions can create problems if people are irrational, if it reduces the performance of agents and if people feel resentment against people who impose the system.

¹⁸² Heath 2014: 298-299

¹⁸³ Scott 20102: 101-119. On academic fraud, see for instance: Barthélémy 2015; Gobry 2016

Second, inequalitarian organizations can lead to irresponsible decisions affecting the stability of *the environment*. As the United Nation Environmental Program underlines, irresponsible environmental decisions constitute additional risks for the stability of just institutions: the risks of natural resources depletion and costly environmental perturbations¹⁸⁴. Environmental problems are therefore a long-term threat to the stability of distributive justice.

Inegalitarian organizations can lead to more irresponsible environmental decisions because they create more competition between people and between firms. More competition for social positions can lead individuals to engage in ostentatious consumption which incentivizes overconsumption. The competition for social status is more intense within unequal societies and pushes everyone to consume more¹⁸⁵. More competition between firms can also lead managers to engage in legal but problematic practices such as planned obsolescence. They can design products that have a shorter lifespan and are difficult to repair. Because of this, people need to constantly buy new products. This has an important impact on natural resource depletion and pollution¹⁸⁶. More competition can also lead to illegal practices. For instance, competition and profit-seeking can lead managers of oil companies to be more negligent and reckless when it comes to safety requirements. This is what happened at British Petroleum (BP) in the Caribbean Sea oil spill of 2010¹⁸⁷. Of course, we recognize the mechanism at play: higher inequalities raise the stakes of winning or losing, thus creating more competition and more incentives to take irresponsible decisions and even break the rules.

Inegalitarian organizations can also create more irresponsible environmental decisions because they tend to disconnect the body of decision-makers, such as shareholders and managers, from the situation of people on the ground. Shareholders and managers often live far away from the firms they own or manage, and managers are more mobile anyway. Therefore, they are less affected by the direct environmental consequences of their firm's activities which mean that they have fewer incentives to be careful. By contrast, more egalitarian firms give decision-making power to workers and maybe other local stakeholders, who tend to live closer from their work or the firm they interact with. Therefore, if they pollute the environment, they pollute *their* environment. There are higher incentives for them to be careful and to comply with environmental regulations. For instance, Malleson underlines that more egalitarian firms, such as cooperatives, generally have better relationships with local communities and the environment because all the people in the firm are more in contact with the environment and the community they work in¹⁸⁸.

WSC always creates undesirable incentives

I have shown that larger inequalities raise the stakes of winning or losing, thus creating more competition and more incentives to engage in more risky behavior and even break the rules. In general, research has shown that more inequality, not only of income but also of power and social status, leads to more competition, which in turn leads to less solidarity, less social cohesion, and more collective action problems¹⁸⁹. I have shown in particular how, because of

¹⁸⁴ The UNDP (1992, sec. 2.4) underlines that "Governments recognize that there is a new global effort to relate the elements of the international economic system and mankind's need for a safe and stable natural environment".

¹⁸⁵ Wilkinson and Pickett (2010: 226) think that the competition for social status is an important factor explaining high levels of consumption experienced in our societies. This threatens the environment.

¹⁸⁶ On planned obsolescence, see: Slade 2006; Leonard 2010: 144-145, 160-163. See also: *The Economist*: <http://www.economist.com/node/13354332>

¹⁸⁷ On BP, see for instance: Robertson & Krauss 2014

¹⁸⁸ Malleson 2014: 77-78

¹⁸⁹ Wilkinson & Pickett 2010: 18-24

purchasing power, decision-making power and status inequalities, inegalitarian organizations can trigger class warfare, can lead to expensive tastes and therefore increase the incentives required to attract people in productive social positions, and can create problematic incentives to engage in irresponsible economic and environmental behaviors.

Therefore, the empirical evidence tends to suggest that $\neg A$: A Strong Welfare State Capitalism, *even its strongest version*, is *insufficient* to realize justice in a stable way. Public institutions should get rid of inegalitarian organizations because (b.) inegalitarian organizations affect individuals' compliance with the rules. I will explain in Chapter 6 how egalitarian organizations can reduce inequalities and therefore reduce competition.

2.4 – Why is WSC unable to provide the conditions to exercise a “sense of justice”?

Egalitarian organizations are desirable because a Strong Welfare State Capitalism creates a third set of stability problems. Inegalitarian organizations and policies aiming at correcting inequalities fail to nurture or to maintain the appropriate conditions to exercise our “sense of justice”. This also threatens the stability of just institutions over time. This is why public institutions should get rid of *all* inegalitarian organizations. Why is Welfare State Capitalism failing to nurture the conditions for exercising our “sense of justice”?

Welfare State Capitalism, institutions and the “sense of justice”

I have already underlined that one of the conditions for institutional stability is to avoid too much human conflict. Whether we value stability for practical reasons or for the “right” reasons, the best way to make sure institutions are stable is to make sure that everyone agrees with social rules. But it is also very useful to make sure that people develop a genuine support and commitment to the institutions in charge of realizing justice. As Rawls says, citizens need to spontaneously develop a constant and reflexive adhesion to these institutions. They should develop what he calls a “sense of justice” to avoid the “normal tendencies to injustice” and “willingly to give one another justice over time”¹⁹⁰. Rawls claims that:

the idea of stability can be introduced as follows: in order to be stable, a political conception of justice must generate its own support and the institutions to which it leads must be self-enforcing, at least under reasonably favorable conditions¹⁹¹.

This is why Van Parijs argues that, without overstepping the constraints imposed by the two principles of justice, public institutions “should not shy away from resolutely designing institutions that foster an ethos of solidarity, of work, of patriotism – not of course because for the intrinsic goodness of a life inspired by such an ethos but because of its crucial instrumental value in the service of boosting the lifelong prospects of the incumbents of society’s worst position”¹⁹². I have argued previously that this was a reason to design institutions while being conscious of the incentives they create. But this is also a reason to design institutions that foster the conditions to exercise our “sense of justice”. But what exactly is this “sense of justice”?

Is it possible to make sure that all individuals value justice?

The most important thing that public institutions need to implement to foster the sense of justice, and the capacities to exercise it, is an appropriate education system, teaching people how to argue about justice, how to think about our civic duties and so on. It is also important

¹⁹⁰ Rawls 2001: 185

¹⁹¹ Rawls 2001: 124-125

¹⁹² Van Parijs, in Freeman 2003 : 231

that public institutions help to develop good media and public debates about public policies¹⁹³. But some argue that the way economic organizations are structured influences the development of a sense of justice as well. There are many intuitions in the literature about how specific sets of institutions or mechanisms could be required to make sure citizens *value* justice. I will briefly mention three examples of these mechanisms.

i. Authoritarian and hierarchical structures: Authors such as Rawls and Hussain underline that authoritarian and hierarchical structures can fail to develop an appropriate sense of justice. They prevent people from the experience of political participation. Following Rawls, Hussain claims that people born into a just and well-ordered society develop an attachment to the principles of justice through a three-stage process: first, they value authority, then, they value their group or association, finally, they value principles. The third stage is the goal:

The final stage in the process is the morality of principles. Individuals at this stage no longer look to authority figures or social roles to provide standards for what is right and wrong. Instead, they understand how the various subordinate ideals of social life flow from the principles of justice, and they ultimately look to these principles for guidance. Moreover, at this stage people are no longer motivated to do what is right because they seek the approval of their parents or associates. Instead, they appreciate the importance of being a just person...¹⁹⁴

For Rawls, what makes people able to reach the third stage is participation in the political life of their community. When people participate in decision-making within social institutions and organizations, they must distance themselves from their individual (or group) concerns and consider larger issues that affect various groups in society, or society at large. For Rawls and Hussain, this would be required to develop a real sense of justice¹⁹⁵.

Relational egalitarians such as Anderson go further and underline that what is important in a democratic society is that everyone stands as equals. Hierarchical structures, by contrast, can make people believe that some are made to decide and others to follow:

Positively, egalitarians seek a social order in which persons stand in relations of equality. They seek to live together in a democratic community, as opposed to a hierarchical one. Democracy is here understood as collective self-determination by means of open discussion among equals, in accordance with rules acceptable to all. To stand as an equal before others in discussion means that one is entitled to participate, that others recognize an obligation to listen respectfully and respond to one's arguments, that no one need bow and scrape before others or represent themselves as inferior to others as a condition of having their claim heard¹⁹⁶.

Like Anderson, Young underlines that hierarchical structures and pyramidal divisions of tasks lead to foster some problematic norms in society such as the idea that some people should take decisions and not others, or that women should only be in charge of care work¹⁹⁷.

ii. Competition: Competition can make people believe that not everyone is equal to others and that some have “more value” than others, or are “better” than others. Anne Philips underlines this problem and suggests that competitive markets have an impact on people's values. She thinks liberal egalitarians accommodate themselves too quickly with market mechanisms. For her, market mechanisms do not only affect the distribution of resources but are also a set of norms and conventions influencing how people conceive justice, equality between people,

¹⁹³ Levine 2013

¹⁹⁴ Hussain 2009: 418-419. See also: Rawls 1971: 462-479

¹⁹⁵ Hussain 2009: 418-420. See also: Rawls 1971: 462-479

¹⁹⁶ Anderson 1999 : 313

¹⁹⁷ Young 2006: 93-96

merit, etc. Markets are not normatively neutral¹⁹⁸. Therefore, we should investigate various types of markets and also, I may add, various organizational designs for firms evolving within markets, and compare them in terms of the values they foster in society:

In any deeper sense, the flirtation with market metaphors and market models rests on a highly abstract understanding of ‘the market’...and an abstraction that brackets, rather than denying, certain predicates in order to achieve theoretical advance. It brackets off the norms and conventions that regulate the behaviour of markets, including substantive norms about what it is reasonable to pay people or what counts as fair exchange, and in doing so misrepresents markets as more even-handed between different reward systems than is the case pretty much all of us recognise that the societies we live in will continue to be organised on broadly market principles for as long as we can anticipate. What that means, however, is that differences between actual markets, between, that is, one kind of market society and another, become increasingly important in the formulation of egalitarian alternatives¹⁹⁹.

Perhaps the most damaging impact of competitive markets on people’s values is that they can be led to think about others not as their fellow citizens in a cooperative effort to maximize the situation of everyone but as competitors and adversaries they need to beat to succeed²⁰⁰.

iii. *Segregation*: Initial inequalities often lead to *segregation* and make people think that we are not all part of the same *community*. For some authors such as Cohen, this sense of community requires to be bound into self-conscious units, concerned about common interests to care about injustices affecting others and to engage in the political life of the community:

“Community” can mean many things, but the requirement of community that is central here is that people care about, and, where necessary and possible, care for, one another, and, too, care that they care about one another... We cannot enjoy full community, you and I, if you make, and keep, say, ten times as much money as I do, because my life will then labor under challenges that you will never face, challenges that you could help me to cope with, but do not, because you keep your money²⁰¹.

According to Cohen, the very fact that inequalities remain (and not only inequalities of income, but also of power, networks and so on) creates distinct classes that don’t interact that much with each other and thus have different lives and preoccupations. This can reduce the common motivation to fight together for common purposes. He gives an illustration:

I am rich, and I live an easy life, whereas you are poor... You have to ride the crowded bus every day, whereas I pass you by in my comfortable car. One day, however, I must take the bus because my wife needs the car. I can reasonably complain about that to a fellow car-driver, but not to you. I can’t say to you: “It’s awful that I have to take the bus today”. There is a lack of community between us... and this show itself in many other ways, for we enjoy widely different powers to care for ourselves, to protect and care for offspring, to avoid danger, and so on²⁰².

This is not only an abstract example. There are luxurious Google Buses that carry rich workers from San Francisco to the Silicon Valley. The problem is that their existence threatens public funding for public buses and pushes local authorities towards privatizing transportation. In fact, it takes away the incentive for rich people to pay for public transportation because they have their own private and luxurious transportation system²⁰³.

¹⁹⁸ Phillips 2008: 440, 458-461

¹⁹⁹ Heath 2006: 313-314, Phillips 2008: 440, 461-462

²⁰⁰ Wilkinson and Pickett (2010: 49-62) also underline that the more societies are unequal, the more trust between people is affected in various ways.

²⁰¹ Cohen 2009: 35. Dow (2003: 38) also underlines this definition of a sense of community.

²⁰² Cohen 2009: 36

²⁰³ Guillaud 2014

These three arguments are compelling and may very well be valid. Once egalitarian organizations will dominate the market, we might be able to demonstrate their benefits and measure how much they help to develop a sense of justice. Yet, for now, these intuitions cannot be a strong base for an argument in favor of egalitarian organizations.

The problem with these three arguments is twofold. First, demonstrating empirically that a specific set of institutions *always* endogenously develops citizens' "sense of justice" in itself is very difficult. The reason is that our data always face the problem of self-selection. Existing egalitarian organizations are created by a specific kind of individuals that already want to participate and have a sense of justice. Alternatively, some data show that the people in cooperatives tend to participate less in politics at the national level. But here again, there might be a problem of self-selection. One school of thought promoting worker cooperatives is anarchism. If people in some egalitarian organizations are anarchists, they may have a strong sense of justice but simply don't believe national politics is the right playground to exercise it. Despite the fact that many authors think that participation fosters cooperative attitudes and concern for others, Dow underlines that it is impossible to know whether there is any *causal* relationship between participation in organizations and the development of positive *values*²⁰⁴.

Second, and more importantly, demonstrating that a specific set of institutions is *necessary*, or is at least *better than all possible alternatives*, to develop citizens' sense of justice is even more difficult and may be impossible. It is probably impossible to demonstrate that a System of egalitarian organizations is really necessary and that an appropriate education system combined with Welfare State Capitalism is not as good to develop people's sense of justice. In fact, the whole history of humanity is full of examples of people developing a sense of justice in rather adverse environments. Being confronted with injustices can very well trigger our sense of justice and motivate us to get involved and support just institutions.

This is why I will focus on two different arguments in the next two sub-sections. The general idea of these two arguments is the following. Given that people are rational and are able to understand arguments of justice by themselves, I will argue that institutions should *not* focus on nurturing a "sense of justice" *itself*. They should simply focus on maintaining the appropriate conditions to exercise this sense of justice.

Why does Welfare State Capitalism fail to nurture the conditions for a sense of justice?

If rational and reasonable people can develop a "sense of justice" in various unjust situations, they still need the appropriate conditions to exercise this sense of justice properly. The two following arguments focus on two main background conditions: i. people need the appropriate *information* about existing inequalities and injustices, ii. people need the *self-governing capacities* to engage in public debates. By analogy, these could be called the "social bases" of a proper exercise of the sense of justice. Therefore, I will now explain why Welfare-State Capitalism creates *misinformation* about inequalities and recall why it fails to foster *self-governing capacities*, and why this threatens the stability of just institutions

i. The "perception and misinformation" argument: Institutional arrangements have an impact on people's information and perceptions about inequalities. Sometimes, their perceptions have little to do with reality. This argument is best summed up by the famous saying that socialism never took root in America because the poor see themselves not as an exploited proletariat but as temporarily embarrassed millionaires. There are *three* main perception problems created by inequalitarian organizations and WSC's corrective policies.

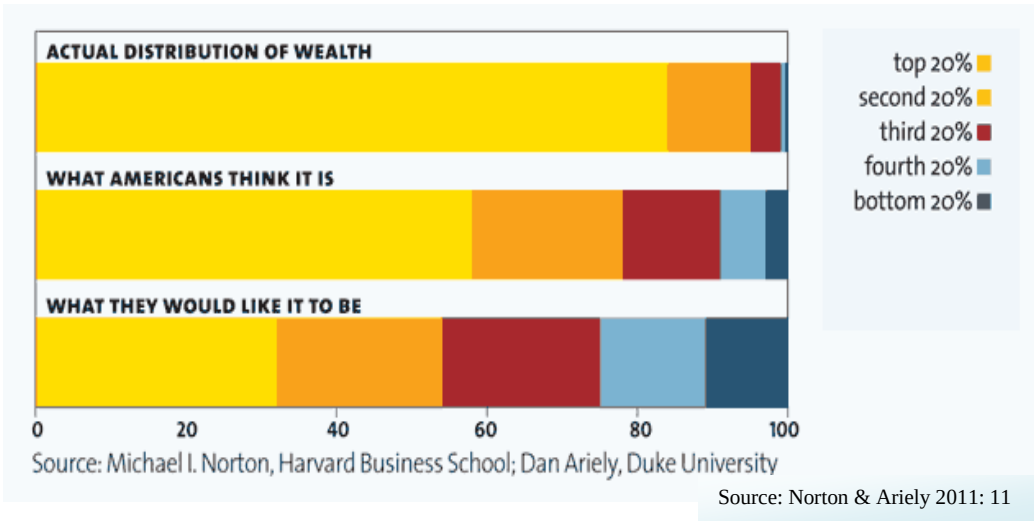
²⁰⁴ Dow (2003: 31) is very skeptical about that kind of arguments and says no empirical study back them.

The *first problem* of perception and misinformation is that while inegalitarian organizations create large pre-tax income and wealth inequalities, most people tend to misevaluate the magnitude of these inequalities. For instance, Michael I. Norton and Dan Ariely made a study about the perception of inequalities in the USA. They conclude that:

“First, respondents dramatically underestimated the current level of wealth inequality. Second, respondents constructed ideal wealth distributions that were far more equitable than even their erroneously low estimates of the actual distribution²⁰⁵.

Table 13 is based on their data and shows very well how much people misevaluate the share of total wealth going to the different quintiles of the population:

Table 13



There are many reasons explaining why people tend to underestimate the inequalities existing in their society. The first obvious reason is that rich people tend to insulate themselves in rich and sometimes closed neighborhoods (and countries) and that everyone tends to interact mostly with people within their own social class. They interact with their colleagues at work, with the people in the same neighborhood, with the parents at the same local schools. Second, if there are visible signs of wealth, it remains difficult to evaluate the exact wealth of someone simply based on visible items. Most wealth is actually not very visible. But there is a third more subtle reason why people might tend to underestimate wealth inequalities. Melvin Lerner calls it the “just-world fallacy”. According to him, there are psychological biases leading people to believe that the world is just and that good actions are rewarded by positive consequences. This can lead people to underestimate the extent to which the world is unjust, as we see in the recent data I just presented, or as I will discuss in a minute, in attributing the misfortune of disadvantaged people to justificatory factors such as individual choices and their respective merits²⁰⁶. One possible explanation is that it is more comforting to believe that the world is just, not only because it is less scary for our own future prospects, but also because it is less emotionally demanding when we see the suffering of others.

²⁰⁵ Norton & Ariely 2011: 11. Similar observations have been made in other countries as well (Forsé & Parodi 2007; Galland, Lemel, & Frénod 2013). For the stylized graph based on Norton’s and Ariely’s data, see: <http://www.motherjones.com/politics/2011/02/income-inequality-in-america-chart-graph>

²⁰⁶ Lerner 1980

The problem with such inaccurate perceptions is that in order to develop a constant adhesion to just institutions and to participate actively in establishing and maintaining just institutions over time, the first important condition is that citizens get the right information about inequalities in their society. Without the appropriate information, people may not have the motivation to act and will not know what needs to be done in order to realize distributive justice. Of course, education is an important way to influence people's knowledge about existing inequalities. But as long as inegalitarian organizations will continue to create large pretax inequalities in income, capital, and other primary goods, there will be important differences between perceived and actual inequalities²⁰⁷. This misevaluation of reality affects people's motivation to fight for just institutions and threatens their stability over time.

The *second problem* of perception and misinformation exists not only because inegalitarian organizations create important pre-tax inequalities but also because of the way they organize and divide work. Inegalitarian organizations create misunderstandings about the link between merit and inequalities. I already argued that the inequalities between social positions on the market do not represent the "merit" of people. Most of our personal capacity to produce and participate in cooperative activities is influenced by contingencies such as our social background, natural talents, and chance. Moreover, most social production depends on the accumulation of material and human capital in the past. The heritage of past generations is very important and includes the contribution of our family to our development and education, language and technological advancements and so on. I argued in Chapter 2 that no one morally "deserves" more than others. Only the inequalities that are necessary to motivate people to work and create useful to maximize the situation of the least well-off are justified²⁰⁸.

The problem is that social positions attach burdens of cooperation to bundles of goods which inevitably leads people to think that these bundles of goods are the reward they deserve for the burden they take on. Therefore, if initial (pre-tax or pre-unions) inequalities between social positions are important, people will think that rich and powerful people deserve their advantages and poor people deserve their poverty²⁰⁹. Again, education may help to dissipate such misunderstandings. But education can hardly counteract the daily influence of economic institutions on people's beliefs and perceptions. As long as large initial inequalities of all primary goods will remain within economic organizations, people's perceptions about inequalities and their justification will continue to be disturbed.

The *third problem* of perception and misinformation is linked to the second but concerns corrective mechanisms themselves. Because people believe that market inequalities represent what everyone deserves, they tend to misunderstand the justifications and role of corrective mechanisms. In the case of income and capital redistribution, people develop the perception that it is taking money rightly owned by the rich to give it charitably to poor people.

Bo Rothstein analyzes various types of welfare programs and compares their respective ability to foster public support. He concludes that a universal Welfare State is better able to foster support. Schemmel summarizes why a universal Welfare State gives rise to causal mechanisms perpetuating justice and strengthening the public support of institutions:

²⁰⁷ This tend to be confirmed by other research showing that people living in more inegalitarian countries such as the USA tend to have worse evaluation of existing inequalities than people living in more egalitarian societies. For instance, see: <https://www.iwkoeln.de/en/extendedmedia/resources/176927/index.html>

²⁰⁸ I discussed that in detail already in Chapter 2.

²⁰⁹ Murphy & Nagel (2002: 3-11) underline this problem. Experiments by Paul Piff using the Monopoly to model market interactions shows that even if the game is explicitly rigged in their favor, winners still believe they are entitled to the victory (<http://nymag.com/news/features/money-brain-2012-7/>).

For UWS, this mechanism is the perpetuation of a coalition of the middle and working classes in support of a regime of unconditional, universal benefits at a high level. Rothstein describes this mechanism in more detail: first, states with UWS are characterised by a widespread belief in the justice of egalitarian benefit provision. Second, trust in and adherence to the institutions and policies of UWS, such as the high taxes it requires, is strengthened by the high quality of social benefits, which are enjoyed also by large parts of the middle-classes: though these classes contribute more to financing UWS through the taxes they pay, the fact that they do receive such benefits makes them willing to support it. Third, Rothstein argues that the absence of pervasive means-testing generates further trust in the institutions of UWS because it diverts attention away from the question whether given individuals really need or deserve benefits, or are ‘welfare cheats’, and instead affirms in practice that everybody is equally entitled to them²¹⁰.

Therefore, a Strong, universal Welfare State is probably more stable than a Weak Welfare State using conditional systems and means-testing. However, this is not enough because even Strong universal Welfare States still create problems of perceptions. The two previous perception problems underlining how people misevaluate initial inequalities and how the division of labor within organizations can lead them to think that the money they make on the market is rightfully theirs are still valid. But a third reason concerns more specifically the correction mechanisms themselves. Rich people, including higher middle class, *do* pay many times the contribution of the least well-off for Welfare State programs. This will inevitably lead some of the rich people to think that they are paying more than their fair share.

Some rich people can start to believe that their contribution to social systems provides them some kind of merit when, in fact, it is only the correction of undeserved inequalities in the first place. This makes rich people think that redistribution is about taking legitimate private property to the rich and give it to the poor²¹¹. For Hacker: “excessive reliance on redistribution fosters backlash, making taxes more salient and feeding into the conservative critique that government simply meddles with “natural” market rewards”²¹². I have already underlined that complexity is a problem for the capacity to understand the reasons for taxation but it is also a problem for perceptions about justice. As I already underlined, Piketty makes this argument in the case of France:

Chacun suspecte son voisin de mieux tirer parti que lui du système en vigueur. Et chacun soupçonne – avec raison – les plus aisés de s’en sortir mieux que tout le monde, ce qui rend très difficile l’acceptation des réformes et des efforts à partager. Le problème aujourd’hui n’est ni de réduire ni d’augmenter les impôts. Il s’agit bien plutôt de les remettre à plat, de mieux les répartir, de les rendre plus simples, plus équitables et plus lisibles²¹³... il est souvent difficile de se mettre d’accord sur le fait de savoir qui paie quoi²¹⁴.

If institutional complexity is an important factor, misunderstandings will always remain even if the tax system or collective bargaining processes are simplified. Because of the three arguments I underlined. Initial inequalities lead to misevaluate reality and misunderstand merit and the role of redistribution. This creates negative perceptions about fiscal redistribution of income and capital and threatens the stability of just institutions over time.

Negative perceptions also arise in the case of the distribution of protection from domination. Even if the reasons justifying the existence of unions are quite simple to understand, most people that are not in situations of domination or are simply not represented by unions and

²¹⁰ Schemmel 2015: 402

²¹¹ Murphy & Nagel (2002: 3-11) underline this well known problem.

²¹² Hacker 2011

²¹³ Landais, Piketty & Saez 2011: 7

²¹⁴ Landais, Piketty & Saez 2011: 31

don't understand the benefits they can bring to workers have a negative perception of unions²¹⁵. Moreover, the limited power unions have weakens the more they use it. The first reason is that unions draw their power from the fact that in the face of public authorities or firms, they are the only ones able to calm down social turmoil. Yet, the more they are good at calming the turmoil, the less they have power on public authorities²¹⁶. The second reason is that the more unions use their power, the less they are approved by the public, which makes the decision to use their power a difficult strategic choice²¹⁷.

In fact, people often complain about the fact that unions create heavy structures and constrain firms and workers. But the main complaint is often that unions use their power abusively and organize too many strikes. Rouillard studies the perception of unions in Canadian public opinion. The tendencies he observes are similar in other developed countries such as the USA and the UK. Even if Canadians tend to accept in principle the legitimacy of unions, they often have a negative perception of them. Since 1950, the popularity of unions has dropped mainly because of strikes. According to Rouillard, the more unions are active and organize protests and strikes, the more they lose public support in the population, especially among people that are not members of any union²¹⁸. Of course, if workers don't have directly the power inside their organization, they need to gather in unions and block the economy to make their voice heard. But if your only power relies on blocking things, you will not make many friends. Therefore, ultimately, the power of unions is eroded by the mere fact that they use it.

Again, education is an important response to influence people's information about existing inequalities, their understanding of the origin of inequalities, and their perception of the role of corrective mechanisms. Yet, as I already underlined, education can hardly counteract the daily influence of economic institutions on people's beliefs and perceptions. Moreover, the two first stability problems I underlined (complexity and incentives) can reinforce the perception problems about inequalities and corrective mechanisms. First, complexity does not help people to understand properly the situation. Second, the fact that the elites have an objective interest in disrupting social protections and have the means to influence public opinion can also lead to perception problems. Therefore, as long as large initial inequalities of all primary goods will remain within economic organizations, people's perceptions about existing inequalities, their origin, and the role of corrective mechanisms will continue to be disturbed. Ultimately, this threatens the stability of just institutions over time.

ii. *The “self-governing capacities” argument*: Now, the conditions to exercise properly our “sense of justice” do not only require appropriate perceptions and information about inequalities and the reasons justifying public institutions. For Rawls: “citizens must have a sense of justice and the *political virtues* that support just political and social institutions”²¹⁹. Arguably, citizens need some “political virtues” or political agency that can be understood as basic political abilities and habits, in order to be able to participate in democratic decisions and to establish and maintain just institutions over time.

These basic abilities are in fact what I referred to as “self-governing capacities”. This is not a new idea. As Scott underlines very well, many authors believe that some kind of independence, autonomy, and capacities are important to exercise our citizenry:

²¹⁵ Rouillard 1991: 299

²¹⁶ Scott 2012: 21

²¹⁷ Rouillard 1991: 277, 291- 295, 305

²¹⁸ Rouillard 1991: 277, 291- 295, 305

²¹⁹ Rawls 2001 : 163 (*my italics*)

political philosophers as varied as Etienne de La Boétie and Jean-Jacques Rousseau were deeply concerned about the political consequences of hierarchy and autocracy. They believed that such settings created the personalities of subjects rather than citizens. Subjects learn the habits of deference. [...] If it does, then an urgent task of public policy is to foster institutions that expand the independence, autonomy, and capacities for the citizenry²²⁰.

Of course, from a liberal perspective these “political virtues” or self-governing capacities are not to be promoted because of their intrinsic value, but only because of their instrumental value for real freedom and the stability of just institutions. In fact, self-governing capacities are not only important for our own personal real freedom, and our capacity to use our resources intelligently to realize our conception of the good, as I underlined in the first argument. Self-governing capacities are also important to exercise citizenry and therefore to secure the stability of just institutions over time. They are important capacities helping us to exercise our power within firms, but also to exercise effectively our power within states. This is an important condition to secure the stability of just institutions.

If public decisions need to be based on an overlapping consensus and public justifications, and if ultimately this justifies democratic regimes in which concrete decisions need to be based on democratic support, then this requires every citizen to have at least the capacities to make informed and autonomous judgments and to have the capacities to defend their judgment about public decisions. However, a liberal non-perfectionist conception of justice may not require everyone to exercise these capacities but simply to develop them in case a political change triggers their interest. If people are rational and seek to realize their conception of the good, if they have the appropriate information, and if they have the self-governing capacities required to understand public issues, they will be able to understand theories of justice and the need for just and stable institutions. They will, therefore, be able to exercise their sense of justice. However, this does not require people to actually use their information and capacities to get involved and participate actively in public decisions. But it gives them the capacities to do so if they decide to. This is what makes this approach different from the one of relational egalitarians, republicans or the ones insisting on community.

I already argued in Section 1.3 that the way economic organizations are structured and the division of tasks between workers within organizations can help to develop self-governing capacities, or instead undermine the development of these capacities. The reason is that organizations are not only working places. They are also learning environments in which workers may develop self-governing capacities or lose these capacities. I already listed many empirical studies suggesting that inegalitarian organizations threaten the long-term development of these self-governing capacities. The capacities I have mentioned in that section, such as self-direction, flexibility²²¹, autonomy and intellectual capacities²²², capacities to make long-term planning and financial planning in particular²²³, and a favorable conception of the self or what can be assimilated to self-confidence²²⁴, are certainly important for our real freedom and our capacity to use our resources and power in an intelligent way. But the same basic capacities are also crucially important for people to be able to formulate autonomous and critical judgments about public decisions and to get involved in politics²²⁵.

²²⁰ Scott 2012: 76-80. Among many others, one might add John S. Mill ([1848] VI.7 §6) who has insisted on the importance for associations to develop workers' autonomy and democratic sense.

²²¹ Kohn & Schooler 1982: 1281

²²² Miller & al. 1979: 66, 90; Quick & Moen 1998: 44, 47, 61; Tuomy & al. 2001 : 318, 321

²²³ Lusardi & Mitchell 2007: 35-44

²²⁴ Lenney 1977: 1; Miller & al. 1979: 66, 90-91

²²⁵ Levine 2013

Elinor Ostrom makes a similar argument about the collective decision abilities of people. She has worked extensively on how people can overcome collective action problems, such as the Prisoner's Dilemma and the Tragedy of the Commons. She argues that our political life is punctuated by various collective action problems. In order to be able to take good political decisions, people need to be able to overcome these problems. For her, any time individuals may gain from a costly action by others, without themselves contributing time and effort, they face collective action dilemmas. This is why citizens need to understand the appropriate methods to cope with these problems. For instance, these methods involve collective decision principles and abilities for compromise for instance. As Levine underlines about Ostrom:

Ostrom believed that these principles could be taught explicitly and formally, but the traditional and most effective means for teaching them were experiential. She argued that the tendency to centralize and professionalize management throughout the 20th century had deprived ordinary people of opportunities to learn from experience, and thus our capacity to address collective action problems had weakened²²⁶.

According to her, the lack of participation in decision-making in the workplace is one reason why many people lack the experience and capacities to address collective action problems. Therefore, distributing more equally the ownership of capital and supporting alternative ownership structures for economic organizations, as well as fostering workplace democracy would help workers to develop experience and capacities to address collective action problems and more generally political problems.

WSC always fails to provide the condition to exercise a "sense of justice"

I have shown that any system tolerating inegalitarian organizations and implementing alternative corrective policies to restore a just distribution of all social primary goods would fail to provide everyone with the appropriate conditions to exercise their sense of justice. First, people would lack the appropriate information to make informed judgments about distributive justice and would develop problematic perceptions about the origin of inequalities and the role of corrective mechanisms. Second, people would lack the self-governing capacities required to be able to participate actively in politics and public debates, if they feel the need to do so. This would prevent them from being able to take an active role in the establishment and maintenance of just institutions over time.

Therefore, the empirical evidence tends to suggest that $\neg A$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it fails to do so *in a stable way*. Public institutions should get rid of inegalitarian organizations because (a.) redistributive mechanisms themselves and (b.) inegalitarian organizations affect individuals' information and perceptions about inequalities and fail to provide them with the appropriate conditions to exercise their sense of justice and to participate in democratic institutions. I will explain in Chapter 6 what kind of organizations can distribute all social primary goods more equally and therefore avoid these problems or mitigate their effects.

²²⁶ Levine 2013

Conclusion of the “stability argument”:

The “stability argument” justifies that all organizations should be egalitarian

Justice requires public institutions to realize a just distribution of all primary goods between social positions. But public institutions also need to do so *in a stable way*²²⁷. Implementing a set of just institutions that would soon lead to their own collapse or corruption would be useless. Therefore, tolerating inegalitarian organizations is acceptable if and only if **A**: A Strong Welfare State Capitalism is *sufficient* to realize all the requirements of justice *in a stable way*²²⁸. The second argument provided empirical evidence to support $\neg\mathbf{A}$:

$\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even its strongest version*, is always insufficient to realize all the requirements of justice because it fails to do so *in a stable way*.

Here again, there are two main ways for the Welfare State to fail to realize distributive justice in a stable way. First, (a.) the *redistributive policies* could *themselves* create instability problems. Second, (b.) *inegalitarian organizations* could create instability problems. The second argument relies on both (a.) and (b.). The argument goes as follow:

(1-) Public institutions should realize a just distribution of all primary goods *in a stable way*.

(2-) But (a.) redistributive mechanisms *and* (b.) inegalitarian organizations both create instability problems threatening the sustainability of just institutions over time.

Conclusion: $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize all the requirements of justice because it fails to do so *in a stable way*.

I argued that it is necessary for public institutions to promote egalitarian organizations because Welfare State Capitalism is an unstable system. (a.) Redistributive mechanisms and (b.) inegalitarian organizations create too much *institutional complexity*, create *undesirable incentives* and fail to nurture or to maintain the appropriate conditions to exercise our “*sense of justice*”. All this threaten the stability of just institutions over time. This is why it is necessary for public institutions to make sure that *all* organizations are egalitarian.

The scope of the stability argument is larger. It does not only demonstrate why *more* organizations should be egalitarian, but it also demonstrates why *all* organizations should be egalitarian and therefore why we should get rid of *all* inegalitarian organizations. Indeed, it shows that the redistributive programs of the Welfare State and inegalitarian organizations themselves, by their mere existence, always threaten the stability of just institutions over time. This is why it is desirable to get rid of all inegalitarian organizations. Therefore, while the first distributive argument is insufficient to reject a mixed system involving both egalitarian and inegalitarian organizations, the second stability argument shows why it is necessary for public institutions to make sure that *all* organizations become egalitarian.

Yet, I still need to evaluate more deeply which organizations qualify as more egalitarian organizations and whether promoting them is sufficient to realize the requirements of justice. I will investigate these issues, and address issues such as efficiency and feasibility constraints in Chapter 6. But we have already reached an interesting conclusion. Because Welfare State Capitalism is always insufficient to realize a just distribution of all social primary goods in a stable way, it becomes necessary (and therefore legitimate) for public institutions to get rid of all inegalitarian organizations and to promote more egalitarian ones instead.

²²⁷ Rawls 2001: 139-140

²²⁸ Cf. Chapter 4

Conclusion – Tolerating inegalitarian organizations is unjust and unstable over time

In Chapter 5, I recalled why that liberal egalitarianism needs appropriate arguments to justify the promotion of egalitarian organizations and argue against systems tolerating inegalitarian organizations. In Chapter 4, I asked whether public institutions should promote a System of egalitarian organizations or a Strong Welfare State Capitalism, tolerating inegalitarian organizations and realizing justice by other means.

In Chapter 5, the goal was to answer this question. The two arguments in favor of tolerating inegalitarian organizations and choosing Welfare State Capitalism have the same structure:

- (1-) Public institutions should 1. respect a presumption of formal freedom / 2. foster efficiency.
 - (2-) A System of egalitarian organizations 1. restricts more formal freedom / 2. reduces efficiency compared to a Strong Welfare State Capitalism.
 - (3-) **A:** A Strong WSC is sufficient to realize all the requirements of justice.
- Conclusion:* A Strong Welfare State Capitalism is the best system to realize justice.

Both arguments rely on assumption **A**: A Strong Welfare State Capitalism *is sufficient* to realize the requirements of justice by correcting all unjust outcomes created by inegalitarian organizations. Therefore, to justify the promotion of egalitarian organizations, liberal egalitarians need to demonstrate $\neg\mathbf{A}$: A Strong Welfare State Capitalism, *even its strongest version*, is always *insufficient* to realize justice because it always fails to correct *all* unjust outcomes produced by inegalitarian organizations in a stable way. Therefore, the question in this chapter was: *Why is Welfare State Capitalism insufficient to realize justice?*

The *results* are the following. I have proposed two independent liberal egalitarian arguments to demonstrate $\neg\mathbf{A}$. At each step, I underlined empirical evidence supporting these arguments.

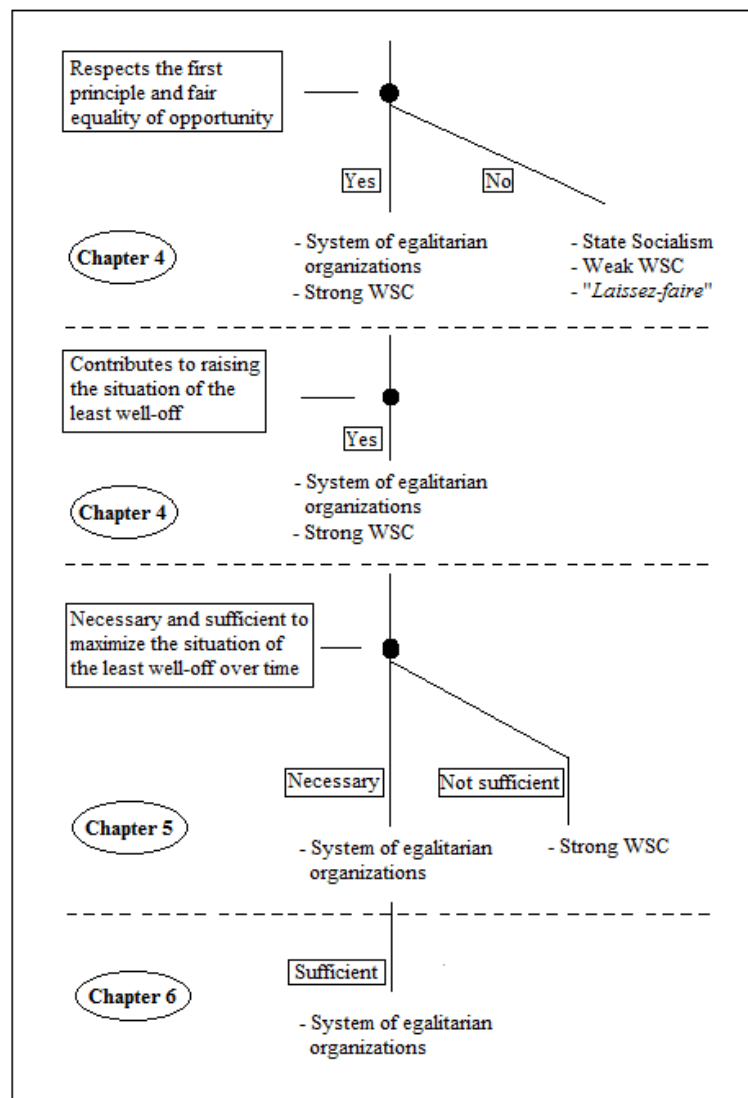
The first “*distributive argument*” justifies that *more* organizations should be egalitarian. It demonstrates that Welfare State Capitalism fails at correcting all the injustices created by inegalitarian organizations in the distribution of the social bases of protection from domination, self-governing capacities, and self-respect. The second “*stability argument*” justifies that *all* organizations should be egalitarian. It demonstrates that Welfare State Capitalism, by tolerating inegalitarian organizations, creates undesirable institutional complexity, undesirable incentives and fails to provide everyone with the conditions to exercise their “sense of justice”. This threatens the stability of just institutions over time. I concluded that in order to realize justice, it is necessary for public institutions to implement a System of egalitarian organizations and to get rid of all inegalitarian organizations.

The *contribution* of this chapter consists in proposing an extensive and detailed collection of liberal egalitarian arguments demonstrating why public institutions should promote egalitarian organizations and get rid of inegalitarian ones. Contrary to previous versions of the first “*distributive argument*”, I explained why public institutions should focus on polyvalent social primary goods, why self-respect is not a separated social primary good, why public institutions should give the least well-off, as much as possible, access to a social position combining the highest amount of each primary good and why promoting egalitarian organizations is *necessary* to this purpose. I have also underlined that the distributive argument based on the failure of WSC to distribute fairly all social primary goods justifies that *more* organizations should be egalitarian but not that *all* organizations should be. The

second “stability argument” is required in order to justify that *all* organizations should become egalitarian because it is necessary to secure the stability of just institutions over time. Contrary to previous versions of this second argument, I explained in greater detail how inegalitarian organizations can threaten stability.

What’s next? Until now, I conceived egalitarian organizations in an abstract way, but I did not specify which concrete organizations do qualify as egalitarian. I did not specify which ones are able to deliver the expected distributive and stability outcomes and thus avoid the problems raised by inegalitarian organizations. I did not either demonstrate that a System of egalitarian organizations is sufficiently efficient to avoid an economic catastrophe. In Chapter 6, I will begin the task of demonstrating that a System of egalitarian organizations is not only *necessary* but also *sufficient* to realize the requirements of distributive justice, at least as far as the difference principle and stability requirements are concerned. I will focus on one case-study in the organization of production: worker cooperatives.

Progression of the argument



Third Part

**Realizing a
System of egalitarian organizations**

Chapter 6

A System of Egalitarian Organizations is Sufficient to Realize Justice

Case-study: Why should public institutions promote worker cooperatives?

The form of association, however, which if mankind continues to improve, must be expected in the end to predominate, is not that which can exist between a capitalist as chief, and work...people without a voice in the management, but the association of the labourers themselves on terms of equality, *collectively owning the capital* with which they carry on their operations, and working under managers *elected and removable by themselves*.

John Stuart Mill ([1848] IV.7 §6) – *Principles of political economy*

Introduction

Most liberal egalitarian conceptions of justice hold that public institutions should respect everyone's freedom to pursue their conception of the good and distribute the material means of freedom¹. Rawls argues for a general presumption of formal freedom or against legal restrictions but public institutions are legitimate to intervene and impose legal restrictions whenever it is necessary to realize justice². Just institutions should respect two principles.

The *first principle* claims that “each person has the same inalienable claim to a fully adequate scheme of equal basic liberties”³ (*for instance*, freedom of expression, assembly, association...). But real freedom requires providing to everyone, as much as possible and impartially, a bundle of goods that allow them to realize their plans in life. According to Rawls, distributive justice consists in defining social positions corresponding to burdens of cooperation and attaching to them a bundle of goods⁴. The *second principle* claims that: “social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged [*the difference principle*] and (b) attached to offices and positions open to all under conditions of *fair equality of opportunity*”⁵. As I said earlier, these two principles are supplemented by general requirements of stability.

Justice issues concerning only the first principle, such as how to regulate the judiciary system and secure fair trial, or justice issues concerning only fair equality of opportunity such as discrimination because of racist prejudice in society are not the topic of this thesis. Of course, promoting egalitarian organization is not sufficient to solve all these issues. The debate

¹ Rawls 2001: 39-50; Van Parijs 1991: 225

² See Rawls (1993: 291-292) on the general presumption against legal restrictions.

³ Rawls 2001: 42

⁴ Rawls 1993: 283-284, 324-331; 2001: 50-51, 63; Freeman 2007: 109, 125; Van Parijs, *in* Freeman 2003: 214

⁵ Rawls 1971: 83

between the System of egalitarian organizations and Welfare State Capitalism only arises once the institutional arrangements necessary to respect equal basic formal freedom and fair equality of opportunities are already in place. Only once these two first requirements are respected can the debate between these two systems take place.

I argued in Chapter 4 that this debate would be settled by the respective capacity of these systems to realize the difference principle in a stable way⁶. I developed, in Chapter 5, two liberal egalitarian arguments to demonstrate that any system tolerating inegalitarian organizations, such as Welfare State Capitalism, even in its strongest version, is *insufficient* to realize justice. I argued that it was necessary to get rid of all inegalitarian organizations and to promote egalitarian organizations instead. But for the argument to be complete, I also need to demonstrate that, given the institutional arrangements securing the other principles, a System of egalitarian organizations is sufficient to realize the difference principle in a stable way.

In Chapter 6, I will argue that a System of egalitarian organizations is sufficient to realize justice. Indeed, until now, I assumed a bit abstractly that there were egalitarian organizations, but I did not specify which concrete organizations do qualify as egalitarian. I did not specify which ones are able to deliver the expected distributive and stability outcomes and thus avoid the problems raised by inegalitarian organizations. I did not either demonstrate that a System of egalitarian organizations is sufficiently efficient to avoid an economic catastrophe. To do so, I will focus on one case-study in the organization of production: worker cooperatives. I chose de case of worker cooperatives because I think they are more likely to be egalitarian than alternatives. Based on up-to-date empirical research in economics and social sciences, I will investigate this question: *Why should public institutions promote worker cooperatives?*

I will begin by restating briefly the central argument developed in Chapter 5 in favor of a System of egalitarian organizations. I will also show why the promotion of egalitarian organizations is desirable from the point of view of both ideal theory and non-ideal theory.

I will then turn to the case study and briefly explain how production is organized in worker cooperatives. I will argue that *specific forms* of worker cooperatives qualify as egalitarian organizations according to de definition provided in this thesis. They are able to deliver the expected distributive outcomes and mitigate the distributive and stability problems that any systems tolerating inegalitarian organizations would raise. I will also show how to tackle the main distributive and efficiency objections against the claim that worker cooperatives should be promoted. To do so, I will gather a set of concrete policies to promote worker cooperatives in a way that preserves distributive advantages and helps cooperatives to be economically competitive. Among other things, I will show that worker cooperatives can be efficient if they receive proper support from public institutions. This solves some remaining issues raised by the substitutability of primary goods (discussed in Chapter 3) and downplays some arguments in favor of Welfare State Capitalism (discussed in Chapter 4). I will finally briefly underline some *exceptions* and some *limits* to what worker cooperatives can achieve. The limits point at the need to promote egalitarian organizations in other sectors of the economy as well.

In Section 1, I restate the central argument in favor of a System of egalitarian organizations and I explain why promoting egalitarian organizations is desirable from the point of view of both ideal theory and non-ideal theory. In Section 2, I argue that worker cooperatives qualify as egalitarian organizations. In Sections 3 and 4, I tackle distributive and efficiency objections. Finally, in Section 5, I briefly underline exceptions and limits.

⁶ O'Neill, in O'Neill & Williamson 2012a: 81-93. Cf. Chapter 4

1 – Restatement: The liberal egalitarian case for egalitarian organizations⁷

The liberal egalitarian case for egalitarian organizations

In this thesis, I argued for a liberal egalitarian conception of justice. Yet, I have made some theoretical clarifications within this framework. In Chapter 1, I argued that a public intervention is legitimate if and only if it is necessary to realize distributive justice, which means that there is no less intrusive alternative to do so. This does not change anything to the first principle. The first principle only stipulates that for some basic formal freedoms, there is an additional criterion. In their case, they can only be restricted in an equal way for everyone. This means that justifying any public intervention requires demonstrating that such intervention is *necessary* to realize the requirements of distributive justice, which includes demonstrating that there is no less intrusive alternative to realize the same goal.

Second, in order to evaluate which public interventions are necessary to realize distributive justice, we need to define clearly the requirements of distributive justice. In Chapter 2, I argued that public institutions should distribute social primary goods between social positions. This includes income and financial capital, i.e. the social bases of purchasing power but also the social bases of protection from domination, the social bases of self-governing capacities and the social bases of self-respect. I also recalled the argument leading to the second principle which includes a requirement to maximize the real freedom of the least well-off by maximizing the bundle of social primary goods attached to the least well-off social position.

In Chapter 3, I tackled the indexing problem. I argued that that maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each social primary good. These clarifications helped to build the case for a System of egalitarian organizations and against other systems.

In Chapter 4, I have argued that in a liberal egalitarian framework, a proper argument in favor of a System of egalitarian organizations needs to respect at least two characteristics. First, the promotion of egalitarian organizations can only be justified by *liberal*, non-perfectionist arguments. Therefore, it can only be justified on *instrumental* grounds, as a way to realize liberal egalitarian principles of distributive justice. Second, the argument must not be based on *contingent* failures of other alternatives, such as the contemporary Welfare States, but on *necessary* failures of all forms of Welfare States, even their strongest versions. Therefore, I argued that the proper strategy consists in demonstrating that promoting egalitarian organizations is required since a Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize justice requirements because it fails to correct all unjust outcomes produced by inequalitarian organizations.

This strategy also has the advantage of being able to refute the two main arguments supporting a Strong Welfare State Capitalism. According to the first argument, a System of egalitarian organizations restricts formal freedom more heavily than a Strong Welfare State Capitalism. But even if there is a presumption of formal freedom, any intervention *necessary* to realize distributive justice is legitimate and even required by justice. There is no absolute priority of liberty over distributive goals⁸. Second, according to the second argument, Welfare State Capitalism is more efficient and therefore better able to maximize the situation of the

⁷ I start by this review to give an overview of my argument and recall and to be able to clearly make the distinction between the arguments in ideal circumstances and the arguments in non-ideal circumstances.

⁸ Rawls 1993: 291-292. Cf. Chapter 1

least well-off. But as soon as efficiency does not help the least well-off, it is no longer desirable, because “laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust”⁹. Therefore, in both cases, public interventions to promote egalitarian organizations are legitimate as soon as we demonstrate $\neg A$: A Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize justice because it fails to correct all unjust outcomes produced by inequalitarian organizations.

In Chapter 5, I exploited this weakness and I provided two arguments based on up-to-date empirical evidence suggesting that $\neg A$ is true. First, the “distributive argument” demonstrates that systems tolerating inequalitarian organization, such as Welfare State Capitalism, create inequalities in terms of protection from domination, self-governing capacities, and self-respect that cannot be compensated by mechanisms such as taxation, welfare programs or unions. This is why *more* organizations should be egalitarian. Second, the “stability argument” demonstrates that systems tolerating inequalitarian organizations tend to be unstable because they create institutional complexity, problematic incentives and fail to provide everyone with the conditions to exercise their “sense of justice”. This is why *all* organizations should be egalitarian. Therefore, any socio-economic system tolerating inequalitarian organizations, such as a Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize the requirements of justice because it would fail to correct all unjust outcomes produced by inequalitarian organizations. I concluded that in order to realize justice, it is necessary for public institutions to implement a System of egalitarian organizations and to get rid of all inequalitarian organizations.

In Chapter 6, I will argue that, given the institutional arrangements securing the other principles, a System of egalitarian organizations is sufficient to realize the difference principle in a stable way. I will focus on one case study: worker cooperatives. Importantly, I will show that, provided with proper public support, worker cooperatives can be very efficient.

It is important to demonstrate that they are efficient in order to solve two remaining issues left aside in previous chapters. First, in Chapter 3, I argued that maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each primary good. The “distributive argument” was based on this claim. However, I also argued in Chapter 3 that this claim is based on the assumption that regimes such as a System of egalitarian organizations are sufficiently efficient to provide a high amount of each primary good and avoid the collapse of the economy. It is thus important to show that a System of egalitarian organizations is efficient. Second, in Chapter 4, I argued that even if a System of egalitarian organizations is less efficient than Welfare State Capitalism, it could be legitimate to promote a System of egalitarian organizations if this is necessary to maximize the situation of the least well-off. As Rawls claims, “laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust”¹⁰. However, a System of egalitarian organizations needs to be reasonably efficient to really maximize the situation of the least well-off.

Is the liberal egalitarian case different in ideal and non-ideal theory?

In the introduction, I have underlined that ideal and non-ideal theory both need to accept humans as they are, and think of institutions as they should be. I will not argue here for this specific conception of the distinction but simply show what it means for my argument. I assume that the only difference between ideal and non-ideal theory is their focus on two

⁹ Rawls 1971: 3

¹⁰ Rawls 1971: 3

different levels of normative evaluation. Ideal theory helps us to understand why achieving justice ultimately requires just institutional structures. A coherent set of institutions is what secures justice over time and avoids the creation of unjust inequalities. Yet, a good ideal theory needs to propose workable institutional arrangements and should take into account feasibility constraints. If an ideal is infeasible, it is useless, and it should be changed¹¹.

I assume here that ideal theory simply focuses on the evaluation of general sets of institutions and how their implementation over time would solve problems of justice altogether. With the same goal in mind, non-ideal theory focuses on proposing preliminary steps in the path leading to the implementation of just institutions. It also looks at which steps can relieve immediately the most extreme forms of injustice in non-ideal circumstances. Therefore, there is no categorical distinction between both. Ideal theory informs non-ideal theory about the ultimate goal in terms of just institutions. Then, non-ideal theory specifies the sequence of steps we need to take in non-ideal circumstances in order to realize just institutions. Yet, this raises two interesting issues for the argument I propose here.

Justifying egalitarian organizations in ideal and non-ideal circumstances

Whether we suppose that we are in ideal or non-ideal circumstances can change the array of arguments we can use to *justify* the promotion of egalitarian organizations.

i. Ideal circumstances: Until now, I have compared socio-economic systems in ideal circumstances, in particular, a System of egalitarian organizations and a Strong Welfare State Capitalism. This does not mean that I assumed people were angels and fully compliant, but rather that I compared these institutional frameworks in their complete, most coherent form. Within these ideal circumstances, the arguments in favor of egalitarian organizations are limited to the two arguments I provided in Chapter 5. A System of egalitarian organizations is preferable since Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize a just distribution of *all* primary goods and to do so *in a stable way*. This is the case even if we suppose that all the problems that public institutions face in contemporary non-ideal circumstances have been mitigated (such as the problems deriving from non-compliance or the lack of international fiscal cooperation for instance)¹².

ii. Non-ideal circumstances: In non-ideal circumstances, however, in addition to these two arguments, other arguments come to strengthen the case for egalitarian organizations. Indeed, we have seen with O'Neill that one reason to promote alternative economic organizations with more egalitarian ownership structures and governance could be that *contemporary* Welfare States are too weak to realize justice. If strategies to strengthen the Welfare State have no short-term chances to succeed, promoting egalitarian organizations could become legitimate, at least at a smaller scale. One important problem faced by the Welfare States in the last decades, as we have seen, is increased international tax competition. This is the main factor explaining the fiscal crisis of contemporary Welfare States. This is one reason why the OECD says that redistributive strategies focusing only on taxes and transfers are doomed to fail because current states operate within a reduced fiscal space¹³.

At the international level as well, redistributive efforts to fight global poverty are also failing. There are many reasons for that but the fact that many firms in poor countries are owned by foreign shareholders and the fact that the mobility of capital and firms' direct foreign

¹¹ See: Rawls 2001: 13; Levy 2014; O'Neill & Williamson 2012: 2-4. Cf. Introduction

¹² I have analyzed the case of international fiscal competition in Chapter 5.

¹³ OECD 2011: 40-41. See: Avi-Yonah 2000: 1596-1598; Murphy & al. 2012: 1-21; Dietsch 2015: 3-5, 15-62

investments allows for tax competition are part of the problem¹⁴. This is one reason why the United Nations supports the development of worker cooperatives in developing countries as a way to retain capital in these countries and to provide better paid and more stable jobs to local population, immune from the fluctuations of foreign investments¹⁵.

Unions are also getting weaker in a globalized economy and workers have as a result a weaker protection against domination¹⁶. Workers are therefore losing the capacity to negotiate better working conditions because the threat of delocalization is increasing. The very structure of many firms also evolves in a more fragmented way, which can weaken even further traditional worker protections¹⁷. Again, if making unions stronger is not possible in the short term, promoting egalitarian organizations could become legitimate.

Promoting egalitarian organizations in ideal and non-ideal circumstances

Whether we are in ideal or non-ideal circumstances can also change the kind of policies that should be implemented to *promote* egalitarian organizations.

i. Ideal circumstances: As I will argue in the following sections, in ideal circumstances, public institutions can implement a set of public policies in order to support egalitarian organizations. For instance, they can help them get funding and to pool resources for investments in research and innovation. Moreover, there would be strong restrictions on inegalitarian organizations so that they would not be able to outcompete egalitarian ones in the market. Eventually, most firms would be forced to conform to egalitarian criteria¹⁸.

ii. Non-ideal circumstances: However, our societies are massively unjust and represent very non-ideal circumstances. Preliminary steps may be required before we get to a full-fledged System of egalitarian organizations. The role of non-ideal theory is to provide us with the proper sequence of public policies necessary to get to the ideal. Therefore, it is important to evaluate how to promote worker cooperatives with the means in our hands today.

In fact, most defenders of egalitarian and democratic forms of organizations such as Marc Fleurbaey, are well aware that radical transitions such as expropriations and strong regulations forbidding some forms of organizations altogether have fewer chances of succeeding. Instead, they propose most of the time a gradual implementation of policies promoting egalitarian organizations such as subsidies, and legal and logistical support¹⁹. This is what I will do at end of this Chapter, in Sections 5 and 6. I will propose an extended set of policies that would be required to gradually implement a System of egalitarian organizations.

But before that, I need to provide concrete examples of egalitarian organizations. I will argue that some specific forms of worker cooperatives qualify as egalitarian organizations according to the definition that is provided in this thesis. I will demonstrate that worker cooperatives can deliver the expected positive outcomes in terms of distributive justice and stability that systems tolerating inegalitarian organizations such as WSC fail to deliver.

¹⁴ Dietsch & Ferretti 2010 : 67; Dietsch 2015: 3-5, 15-62; See also: *Hickel 2013*

¹⁵ See: United Nations: <http://www.un.org/esa/socdev/social/cooperatives/documents/CoopsAtWork.pdf>. See also: Pérotin 2013: 34-47; Malleon 2013; 2014: 54-92

¹⁶ OECD 2008: 2; OECD 2011; Castles & Al. (eds.) 2010: 8-14

¹⁷ Schor (2014) discusses for instance the effects the “sharing economy” on labor exploitation.

¹⁸ I will analyze various policies supporting worker cooperatives in Section 6.

¹⁹ Fleurbaey 2006: 123-136, 202-215. One advantage of a System of egalitarian organizations is that it is possible to have a gradual implementation of the policies required to realize it.

2 – Case-Study: Why should we promote worker cooperatives?

Why should we choose worker cooperatives?

I argued in favor of a System of egalitarian organizations. Such a system would be one in which public institutions use public resources and do everything that is necessary to promote egalitarian organizations in all sectors of the economy. I argued that in a Rawlsian framework, organizations are egalitarian if they create social positions attached to equal or nearly equal bundles of all social primary goods *within* or *across* firms. Given this *abstract* definition, we need to identify which *concrete* organizations qualify as egalitarian organizations.

I chose to focus on one important aspect of the economy: the organization of the production of goods and services. Yet, evaluating all economic organizations and comparing how egalitarian they are is a task too large for this thesis. From egalitarian collectives to codetermination, many enterprise forms could contribute to distributive justice. Yet, in the field of production of goods and services, I think that the form of organization that is the most likely to qualify as an egalitarian organization is the *worker cooperative*.

The United Nations and the International Cooperative Alliance (ICA) sponsored the International Year of Cooperatives in 2012. Following this international event, the Alliance published the *Blueprint for a Co-operative Decade*. In this document, they underline a number of “values” and “characteristics” that define cooperatives around the world, such as voluntary and open membership, democratic control, member participation in ownership, autonomy and independence, education and training and a concern for community²⁰. But it is important to underline that, both because of the requirements of liberalism and because of descriptive concerns, it is preferable not to define cooperatives by referring to the “values” or “purpose” individuals share inside the organization. This is why I will provide instead a definition of worker cooperatives that is not based on the specific normative standards of any institution or any group of citizens but on some of the most accepted theories of the firm.

Gregory Dow provides a clear definition of what a firm is: “I define a firm as a set of agents supplying inputs to a common production process, where the productive activities of the agents are coordinated through an authority structure and the resulting outputs are sold on a market”²¹. What is important to characterize various types of firms is not the nature of the activities, but the structure of authority of the firm. For Dow, what characterizes various types of firms is the type of persons that are within the “control group”, i.e. which group has authority over which decisions²². In a capitalist firm, investors (providing the financial input) have the control over most decisions. In a worker cooperative, workers (potentially providing financial input and providing human capital input) have the control over most decisions. Other structures of control can allocate to different groups the control over different subsets of decisions within the firm. This way of characterizing firms is relatively uncontroversial today. What makes Dow conception of the firm more original is that he argues that firms cannot be “owned”: “In capitalist firms, it is often true that the same person or group (1) owns the physical assets needed for production; (2) bears risk; and (3) is the ultimate control group”²³. However, these various roles, involving subsets of control rights (control over capital, control over internal decisions, etc.), can be coupled or decoupled at will. What ultimately characterizes firms is the overall structure defining *who has control over what*. Therefore:

²⁰ Mills & Davies 2013: 41 (See also: <http://ica.coop/en/whats-co-op/co-operative-identity-values-principles>)

²¹ Dow 2003: 92

²² Dow 2003: 92-93, 101

²³ Dow 2003: 107. Axel Gosseries (2012) also argues that what matters is the structure of control.

A worker cooperative is a firm in which workers control most important decisions, notably because they own the capital needed for production, bear the risks and have the ultimate control over internal decisions²⁴.

Henry Hansmann argues instead that enterprises are characterized by their *ownership* structure. For him, a firm's owners are the persons who share two formal rights: "the right to *control* the firm and the right to appropriate the firm's *profit*, or residual earnings"²⁵. But this definition is compatible with the broad definition given by Dow. Indeed, the "ownership structure" can be understood simply a way to designate the overall structure defining *who has control over what*. Each particular organizational design allocates to specific groups the control over internal decisions and the control over the allocation of profits. In theory, these specific subsets of control rights could be coupled or decoupled at will. In Hansmann's framework, a capitalist firm is simply a cooperative of investors, allocating both the control over internal decisions and the control over the allocation of profits to the group providing the capital input. A worker cooperative is simply a firm allocating both the control over internal decisions and the control over the allocation of profits to workers.

Worker cooperatives and their distributive effects: the case of Mondragon

I will argue that in the case of production, well-regulated worker cooperatives are likely to distribute purchasing power, protection from domination, self-governing capacities, and self-respect more equally. Worker cooperatives exist all around the world and are involved in very diverse economic activities from agriculture to manufacturing and services. They often (but not always) create lower income and capital inequalities between their members, decisions are taken democratically by workers. They are also often as efficient as other firms and create more stable jobs²⁶. I will propose a brief and up-to-date synthesis of the literature about worker cooperatives to show why worker cooperatives qualify as egalitarian organizations.

The "Mondragon Corporación Cooperativa" will serve to illustrate my claims all along. Mondragon is a group of cooperatives in the Basque country, in Spain, which organizes work in a more egalitarian and democratic way²⁷. The first cooperative of the group, ULGOR, was founded in 1956. Today, the group gathers more than 100 cooperatives and has become one of the largest cooperative groups in the world. It is the most important industrial group in the Basque country and the seventh most important in Spain. Mondragon provides fairly paid, life-long jobs to more than 35 000 members. Mondragon still has an egalitarian and democratic constitution: members own the capital of the cooperative and take decisions democratically under the principle "one member, one vote". The constitution and general rules put in place by the first cooperative became the model for all the new cooperatives in the group. Even if the respective role of several instances within the firm has changed over time, the democratic structure stayed basically the same until today²⁸.

In 2014, its annual turnover was about 14 billion Euros (including 4 billion Euros in international sales). In the 1990s, in response to increasing international competition, the group also created 138 investor-owned subsidiaries in different countries²⁹. Cooperatives are organized into four sectors. The "industrial sector" is the most important, producing various

²⁴ This definition is compatible with the ones of Dow (2003), Hansmann (1996) and the International Cooperative Alliance (Mills & Davies 2013). Here, I will use "control group" and "owners" interchangeably.

²⁵ Hansmann 1996: 11 (*my italics*). Axel Gosseries (2012) criticizes Hansmann's concept of ownership.

²⁶ Mills & Davies 2013; Pérotin 2013: 34-47; Malleson 2013; 2014: 54-92

²⁷ Dahl 1985: 107-141; Whyte & Whyte 1991; Dow 2003: 45-66; Malleson 2013; 2014: 54-92

²⁸ Whyte & Whyte 1991: 38, 291; Mondragon 2012

²⁹ In countries such as Spain, Brazil, Mexico, Germany and China for instance (Mondragon 2012)

goods such as trains and car parts, house and office furniture, and, until recently, appliances such as washing machines (produced by the first co-op ULGOR which gave birth to the first group of co-ops, FAGOR). The “financial sector” is constituted by the Caja Laboral Popular (a savings and credit cooperative bank) and insurance services. The “distribution sector” is mainly composed of the EROSKY chain of hypermarkets, a mixed constituency of workers and consumers (at least for shops in the Basque Country) selling food and other products. Finally, the “knowledge sector” is constituted by the Mondragon University and 15 industrial research-and-development centers in charge of innovation. The university and research centers are second-degree cooperatives: they are owned by other cooperatives of the group³⁰.

As I said, Mondragon employs around 35 000 worker-members with full rights, powers, and responsibilities. Mainly in the last two decades, Mondragon has also created and acquired conventional investor-owned firms that are not (or not yet) cooperatives. Therefore, the group also includes around 45 000 non-member workers. Most are temporary workers with lower salaries than members and they lack the right to participate in decision-making³¹. The rising proportion of non-members in recent years is mainly due to Spain’s entry into the European common market and to increased international competition. This is often cited as a “paradox” or a failure of cooperatives, degenerating into a “club of capitalists”³². I will return to this and show that this is a bit of a caricature. Not only is the proportion of workers with more rights higher than in any regular firm, but most people I spoke with in Mondragon are well aware that this situation is in conflict with their founding value of equality between workers. But they need to be pragmatic because they manage the jobs and capital of 35 000 members and they need to adapt to an increasingly competitive environment. However, Mondragon has a plan to get the proportion of worker-members back to 70-75% by the end of 2016³³.

Worker cooperatives distribute purchasing power more equally

The first argument for promoting egalitarian organizations and rejecting inegalitarian ones consist in saying that egalitarian organizations succeed in realizing a just distribution of all primary goods. We have seen that any system tolerating inegalitarian organizations fails to realize justice but I need to show now that cooperatives are really egalitarian organizations and succeed in giving the least well-off access to a social position attached to a high amount of each primary good. I will start with the social bases of purchasing power.

Egalitarian organizations need to distribute the social bases of purchasing power more equally between social positions. This includes income and capital. I have argued that redistributive taxation could correct income and capital inequalities created by inegalitarian organizations. Yet, the extent to which redistributive taxation can reduce these inequalities is still limited because of incentive problems in ideal circumstances and compliance problem in non-ideal circumstances. Moreover, redistributive tax systems face stability issues because of institutional complexity, problematic incentives, and problems of perceptions.

The first advantage of worker cooperatives is that they tend to reduce income and capital inequalities. There is a large consensus about the fact that worker cooperatives tend to allocate wages in a much more equal way than capitalist firms³⁴. Obviously, lower income gaps are frequent in cooperatives because workers decide democratically about pay ratios and take

³⁰ Mondragon 2012

³¹ Malleson 2013: 153. This is also based on personal interviews conducted in 2014.

³² *The Economist* 2009

³³ Malleson 2013: 147. I will discuss this in more detail below.

³⁴ Dahl 1985; Dow 2003; Rothschild 2009; Piketty 2011: 524-533; Pérotin 2013: 34-47; Malleson 2014: 76-80

decisions that are to their advantage³⁵. In Mondragon, the maximum ratio is 6:1 today and, as a result, the lowest salary was much higher than the minimum wage in Spain³⁶. Capital ownership is also important to provide individuals with purchasing power but also with financial security, access to loans and other related opportunities³⁷. On that front, the cooperative model is advantageous again because worker-members share the ownership of the firm. This helps workers, especially the least well-off, to accumulate more capital than they would normally be able to accumulate in a capitalist firm. Therefore, it helps to spread capital ownership and reducing inequalities in capital ownership in society³⁸. For instance, Mondragon fixes a membership price and provides worker-members with a capital account from which they can withdraw their share of profits when they leave the cooperative³⁹.

Worker cooperatives distribute protection from domination more equally

Egalitarian organizations also need to distribute the social bases of the protection from domination more equally. It is important because strategies such as collective bargaining keep too much inequality of power between owners (or managers) and workers. In worker cooperatives, worker-members share formal decision-making power within the firm, which helps them to protect themselves from domination.

Thanks to democratic decision-making structures, workers participate actively in decisions about income ratios, internal policies, and general strategy. One of the main advantages of democratic structures is that cooperatives react to market fluctuations in ways that are to their members' advantage. Of course, if workers decide how to adapt to market fluctuations, they will adjust collectively their wages or their working hours instead of firing people. Although work can always be difficult, this leads to better working conditions and better relations with local communities. In general, workers are subjected to less power inequality⁴⁰.

Whyte and Whyte summarize the structure of Mondragon. Decision-making power ultimately falls in the hands of the *General Assembly*, meeting once a year. All worker-members (and only worker-members) have a right to vote and an obligation to attend. The assembly still abides by the principle "one member, one vote". The *Government Council* is the highest political decision-making body in each cooperative. The General Assembly elects the Government Council, which can only be constituted by worker-members (no external nominations). Its members do not get higher wages for this job, but they continue to receive their regular salary. The Government Council decides on the co-op's general orientations and policies (wages, working conditions and so on). It also appoints day-to-day *managers* and heads of departments. Whyte and Whyte underline that managers are often influential but although they can speak at the Government Council, they cannot vote. Managers have to implement the decisions of the Council and they have to collaborate with the heads of departments. *Management Comities* gather all managers and heads of departments to foster proximity between managers and workers. The *Social Council* is like an internal union. Because the General Assembly only meets once a year, the Social Council meets once a month and allows workers to meet more regularly, voice their claims and criticize the management. Because managers are excluded and because it is constituted of workers elected in each department (for two years), the proportion of low-paid workers is higher in Social

³⁵ Dow 2003: 24-27. Dow underlines the problem of inequalities between firms to which I will come back.

³⁶ For the income gap, see: Whyte & Whyte 1991: 44-45. For wages: personal interviews conducted in 2014.

³⁷ Meade 1964; O'Neill in O'Neill & Williamson 2012a: 79. I will deal with inequalities between firms later on.

³⁸ Dahl 1985; Dow 2003; Rothschild 2009; Piketty 2011: 524-533; Malleson 2014: 76-80

³⁹ Whyte & Whyte 1991: 42-43; Malleson 2013: 130-134

⁴⁰ Dahl 1985; Dow 2003; Rothschild 2009; Piketty 2011: 524-533; Pérotin 2013: 34-47; Malleson 2014: 76-83

Councils than in the Government Council. The Social Council also gives workers the opportunity to acquire experience in business and bargaining. Given that members are at the same time owners and workers, some have argued that the Government Council is more concerned with their interests as owners while the Social Council is more concerned about their interests as workers but both Councils are sensible to all workers interests⁴¹.

Worker cooperatives distribute self-governing capacities more equally

Egalitarian organizations also need to distribute the social bases required to develop self-governing capacities more equally. Here again, worker cooperatives help workers to develop their autonomy⁴². It constitutes the third advantage of this model.

Because worker cooperatives involve workers in decision-making, involvement in management itself diversifies work and makes it more complex. They are thus better than capitalist firms to develop workers' self-governing capacities. I already underlined the empirical evidence showing that the participation in decision-making, responsibilities, and complex work was very important to develop self-governing capacities. It also develops basic and polyvalent capacities such as organization, management, and financial skills⁴³. But more importantly, egalitarian organizations such as worker cooperatives, thanks to their democratic structure, avoid *degrading* the self-governing capacities of their workers over time. This is in itself an advantage of cooperatives over other organizations. By contrast, inequalitarian organizations such as capitalist firms tend to affect negatively people's self-governing capacities over time. They create occupational inequalities which make workers *lose* self-governing capacities. They also affect the self-confidence required to make an effective use of these capacities. Therefore, in a system tolerating inequalitarian organizations it would always be costly and hazardous to try to constantly correct these unjust outcomes⁴⁴.

In the case of Mondragon, as Whyte and Whyte underline, there is no question that education was central to the idea of the founder. He saw cooperatives as providing an education to economic progress. This was certainly one important reason behind the creation of Social Councils. Beyond helping the communication between managers and workers, it also helps to avoid the passivity of workers and to facilitate a more direct experience in problem-solving⁴⁵.

Worker cooperatives distribute self-respect more equally

A just distribution of basic formal freedoms and of other social primary goods constitutes in itself the social basis of self-respect. I have argued that the social bases of self-respect are not a separate good. Therefore, within a liberal and democratic society that already distributes fairly purchasing power, protection from domination and self-governing capacities, people would automatically have all that they need to gradually develop self-respect over time. They would have the power and capacities necessary to defend their rights, to develop meaningful relationships, to acquire relational goods, to organize their life and work in a way that respects their conception of the good, to defend themselves against discrimination and therefore to develop a positive conception of their own person. This would secure everyone's dignity.

Because promoting egalitarian organizations is required to distribute fairly all primary goods, then it is also required in order to distribute fairly self-respect. This is an additional reason to

⁴¹ Whyte & Whyte 1991: 38, 291

⁴² Whyte & Whyte 1991: 256; Leroux 2012: 14. This is often underlined by workers in co-ops themselves.

⁴³ Schweickart, in O'Neill & Williamson 2012a: 210; Arnold 2012: 104-108

⁴⁴ Cf. Chapter 5, Section 2.1

⁴⁵ Whyte & Whyte 1991: 38-41, 256

value egalitarian organizations. Because worker cooperatives distribute all the other primary goods more equally, they distribute the social bases of self-respect more equally. By contrast, because inequalitarian organizations such as capitalist firms do not distribute fairly all primary goods, systems tolerating them would fail to distribute fairly the social bases of self-respect⁴⁶.

Let me recall that liberals need to avoid imposing a conception of the good life to everyone. Therefore, promoting worker cooperatives cannot be based on the requirement of “meaningful work” for instance, because some people do not need self-realization and decision-making power *at work* to develop their self-respect. Promoting worker cooperatives can only be justified on instrumental grounds, notably because it is necessary to maximize the protection from domination and the self-governing capacities of the least well-off and provide them the tools to craft the working conditions that will fit what they need to develop self-respect and self-confidence. Yet, many studies demonstrate that egalitarian workplaces are important for many people to develop self-respect and dignity and avoid their degradation due to social stratification inside firms⁴⁷. Importantly, this is more often the case among the least well-off workers because they have less of other primary goods and are more at risk of domination⁴⁸.

Because they are egalitarian, worker cooperatives also mitigate stability problems

Egalitarian organizations are also desirable because they can mitigate the stability problems created by inequalitarian organizations. Indeed, I argued that a Strong Welfare State Capitalism tolerating inequalitarian organizations and using intensively redistributive taxation and several other policies in order to correct unjust inequalities creates many stability problems over time.

The capacity of egalitarian organizations to create less initial inequality in terms of all primary goods is the very reason why they are superior to inequalitarian firms in terms of stability. Indeed, because worker cooperatives realize a more equal distribution of social primary goods between the social positions they create, they automatically mitigate the stability problems created by inequalitarian organizations and by the web of public policies that are supposed to restore a just distribution in Welfare State Capitalism. At least, the reduction of initial inequalities sufficiently mitigates these problems so that they become negligible. Worker cooperatives would be better to avoid too much institutional complexity, undesirable incentives, and would provide the proper conditions to exercise a “sense of justice”⁴⁹.

3 – How to tackle distributive objections?

In this thesis, I argued for the promotion of egalitarian organizations. I already refuted two of the main objections: the two arguments in favor of tolerating inequalitarian organizations, based respectively on the presumption of formal freedom and the need for economic efficiency, shared the same weakness. They relied on the assumption that a Strong Welfare State Capitalism would be able to correct all unjust outcomes created by inequalitarian organizations, and would be able to do so in a stable way. I already refuted this assumption.

But the capacity of egalitarian organizations to create a just distribution of all primary goods is the very reason why they would also be superior to inequalitarian firms in terms of stability. Therefore, both arguments in favor of egalitarian organizations depend on the demonstration that some forms of organizations such as worker cooperatives do succeed in distributing

⁴⁶ Young 1990: 222-225. Cf. Chapter 5, Section 1.4

⁴⁷ Young 1990: 222-225; Dow 2003 : 34-38, 41-44

⁴⁸ Young 1990: 56-58, 222-225; Arnold 2012: 114-117. Cf. Chapter 5, Section 1.4

⁴⁹ This claim relies on the fact that inequalitarian organizations create stability problems. Cf. Chapter 5, Section 2.

primary goods more fairly inside and between them. The problem is that the present-day legal form of worker cooperatives is often not sufficient to secure a more egalitarian distribution of social primary goods. The first set of objections can be thus called distributive objections because they attack the claim that worker cooperatives are necessarily more egalitarian. The proper way to tackle these objections consists in arguing that public institutions should promote only specific forms of worker cooperatives and regulate them to make sure that they really produce the desired distributive outcomes.

Income and capital inequalities within co-ops

One distributive objection underlines that worker cooperatives could decide democratically to create large *internal* income inequalities. Indeed, there are income and capital inequalities in most cooperatives and these inequalities could eventually become very large. In such situation, they would cease to be egalitarian. There are two possible answers to this objection.

i. Liberal egalitarianism justifies small inequalities: Liberal egalitarianism does not require perfect equality in society in general and inside specific organizations. Some inequalities of income and capital are justified in order to create incentives to work and to invest and in order to allocate human and material resources where it is most needed. Moderate inequalities are important in order to keep the benefits of a market economy, to which I will come back. This is why I defined egalitarian organizations as the ones creating equal or *nearly* equal social positions, mainly by comparison to inegalitarian ones such as capitalist firms which often create very large inequalities. Therefore, worker cooperatives can qualify as egalitarian organizations even if they create small inequalities inside them.

Various mechanisms in worker cooperative tend to secure that income and capital inequalities will remain small inside the firm. First, on the managers' side, like most people, they often value things other than income, and in cooperatives, they often come up through the cooperative and share its values. Therefore, they tend to accept lower income and capital remuneration and tend to value good working relations and participation in the community⁵⁰. Second, even if this was not the case, the democratic process gives workers the final say on remunerations. It is no surprise that income and capital inequalities tend to be lower⁵¹. No inequality that does not serve the purpose of making workers better-off would be accepted. Finally, one important driver of income and capital inequality within firms is size. By contrast, instead of big integrated firms, cooperatives tend to stay small or develop federations or groups of small firms such as Mondragon, which help to keep inequalities lower⁵².

For instance, in the case of Mondragon, the founders were foreseeing a single co-op, ULGOR, of at most 200 employees and fixed the maximum ratio at 3:1. The rapid growth experienced in the first decades led to a bigger and more complicated group structure. With the increased complexity of management tasks, some managers judged that they were underpaid compared to what they could get in regular firms. Yet, very few managers left for other firms because they shared cooperative values. Democratic decision-making has secured that the ratio did not increase too much, and the group decided to split up cooperatives whenever it was possible to make sure each one stays small. As a result, today, the ratio is set at 6:1 with the only intention of attracting good managers in a more competitive environment. Such small inequalities are still acceptable and even useful to make all workers better-off⁵³.

⁵⁰ Whyte & Whyte 1991: 44-45; Malleson 2014: 76-80

⁵¹ Dow 2003: 24-27. Dow underlines the problem of inequalities between firms to which I will come back.

⁵² Whyte & Whyte 1991: 44-45

⁵³ Whyte & Whyte 1991: 44-45

ii. Public institutions can incentivize the reduction of inequalities: Second, public intervention can secure low inequalities. Indeed, if public institutions are to promote worker cooperatives and support them with public funding, for instance, it can be important to put additional safeguards to secure low inequalities. For instance, public institutions could provide funding to help worker cooperatives in priority to cooperatives with the lowest inequality ratios, and incentivize federations of small cooperatives. And if some cooperatives stop being equalitarian for some reason, they should be denied public support.

This is important as some cooperatives do recreate important inequalities. Even in the case of Mondragon, inequalities became more important since they started raising the ratio of non-members. Sometimes, these non-members are paid more than managers because they are highly specialized workers, hired for short periods of time. This can violate the 6:1 ratio but these highly paid non-members have no share in ownership and no vote in decisions. The real problem lies not here but in the existence of non-members that are paid less than the lowest wage of worker-members. Inside a cooperative of the group, the portion of non-members is limited to 10% of the workforce and is often under 3-5%. But the group has recently created or bought conventional firms in which all workers are non-members. This has led to a rapid growth of the number of non-members in the last decade. Public intervention should make sure that cooperatives do not go down that path or deny them support if they do⁵⁴.

Policy Proposal 1: Public institutions should support in priority worker cooperatives with the lowest internal income and wealth inequality ratios. If some cooperatives start to create too large income and capital inequalities between members, they should be denied public support.

Capital and the problem of degeneration

Another distributive objection precisely underlines that worker cooperatives can create barriers to entry and hire non-members that do not participate in capital ownership. This is often cited as a “paradox” or a failure of cooperatives, degenerating into a club of capitalists⁵⁵. Degeneration and the rise in the proportion of non-members can be due to two main causes.

i. Ownership structures and degeneration: Problematic ownership structures can lead to the degeneration of worker cooperatives into capitalist firms. In order to avoid such degeneration, Mondragon has implemented a specific property system that helps to avoid two ways in which cooperatives tend to degenerate into capitalist firms. First, because there are no conventional shares, worker-members cannot sell their shares to external private investors to benefit from the capital gains they accumulated while working in the cooperative. This system is meant to avoid rapid degeneration. Second, because the price of an entry share is not tied to the value of the firm, membership does not become so costly that new workers are unable become members. Instead, Mondragon fixes the membership price and provides to worker-members a capital account from which they can withdraw their part of the profits only when they leave the cooperative. This system is meant to avoid slow degeneration⁵⁶.

Policy Proposal 2: Public institutions should make Mondragon’s ownership structure mandatory for all worker cooperatives and set by law a maximum ratio of non-members.

⁵⁴ Malleson 2014: 63. Yet, Mondragon’s subsidiaries often pay their employees more than their competitors do.

⁵⁵ Dow 2003: 221; *The Economist* 2009; Malleson 2013: 130-134

⁵⁶ Whyte & Whyte 1991: 42-43; Malleson 2013: 130-134

ii. *International competition and degeneration*: The group has not found a proper solution for the second main accelerator of degeneration: increased international competition with conventional firms⁵⁷. The only solution for this is public support for worker cooperatives.

Indeed, cooperatives like Mondragon are left with fewer options than capitalist firm when they need to adapt to market fluctuations. For worker cooperatives, firing members or delocalizing offshore is much more difficult. In order to adapt, they can hire non-members or create conventional firms. In Mondragon, in order to reduce labor costs and gain some flexibility, the group decided to create or buy conventional investor-owned firms. From around 25000 workers in 1990, mostly worker-members, the group reached 80 000 workers in 2010. Only 35 000 are worker-members and at least 45 000 of them are non-members, mostly in conventional subsidiaries. Among the 35 000 worker-members, most work in cooperatives in the Basque country. The chain of hypermarkets EROSKI developed many subsidiaries in Spain. It employs 30 000 non-members, although Mondragon encourages them to accumulate enough capital to buy their membership. Finally, Mondragon also owns conventional firms and production plants employing around 15 000 non-members in countries like Brazil, Mexico, Germany, and China⁵⁸. Two main reasons are given by managers to explain the rise in the number of non-members. First, creating a cooperative is a slower process. It is quicker to create new conventional firms and then convince new employees to transform them into cooperatives. Second, regulations in various countries make it difficult to start cooperatives⁵⁹.

The people I met in Mondragon in 2014 were well aware of the contradiction between their egalitarian principles and the reality in Mondragon. It was a concern for them, but pragmatism won out. As one of them told me, they are no angels. They try to organize the work and manage the capital of 35 000 worker-members in an unstable international competition and sometimes they have to put their principles in balance with long-term stability. Yet, Mondragon pushes new employees to accumulate the capital needed to buy their membership, especially in EROSKI subsidiaries in Spain and in firms in Brazil that will soon become cooperatives. Mondragon thus has a real plan to redress the situation and bring the proportion of members among workers back to 70-75% at least by 2016⁶⁰.

I will argue later that public institutions should implement a set of public policies to support worker cooperatives in various ways notably to help them to outcompete capitalist firms in increasingly competitive global markets, thus reducing the incentive to degeneration.

Income and capital inequalities between firms

Another distributive objection underlines that worker cooperatives do not prevent inequalities of income and more importantly inequalities of capital *between* firms⁶¹. For now, I have mainly underlined the fact that worker cooperatives create few inequalities *inside* them. But in order to avoid distributive and stability problems created by inegalitarian organizations, they also need to create few inequalities *across* firms. If worker cooperatives allow for too much inequality to arise between them, they should not be considered to be egalitarian.

Inequalities between worker cooperatives mainly concern income and wealth. Indeed, formal equality in decision-making power *inside* each cooperative is sufficient to secure equal or

⁵⁷ Malleson 2013: 141-151

⁵⁸ Mondragon 2012; Malleson 2013: 141-142

⁵⁹ These remarks are based on personal interviews conducted in 2014

⁶⁰ Malleson 2013: 174; personal interviews conducted in 2014

⁶¹ This objection is underlined by many authors. See for instance: Dow 2003: 24-27; Nozick 1974: 250-253

nearly equal social bases of protection from domination, self-governing capacities and self-respect for everyone across firms. Worker cooperatives can create inequalities of income and capital between them for mainly two reasons: cooperatives can have different levels of profitability and cooperatives can have different amounts of capital per worker (depending on how labor and capital intensive their activities are)⁶². There are three main answers.

i. Liberal egalitarianism justifies small inequalities: Again, let me recall that perfect equality is not the goal. Some inequalities in profitability are important to incentivize people and firms to invest in profitable activities which tend to be the ones that are most in demand and in low supply. If public institutions support entrepreneurship and education, and if entering the market is not costly, competition should be able to keep low profit margins in all firms. Moreover, the goal is to maximize the situation of the least well-off by giving him access to a social position combining a high level of each primary good⁶³. Worker cooperatives, even if they do allow for inequalities of income and capital between firms to arise, will still provide to the least well-off a higher, more stable income and easier access to capital ownership. This is already far better than any inegalitarian organization such as capitalist firms.

ii. Supporting cooperatives groups: Now, one possible intervention to limit inequalities between firms would be to promote the development of cooperative *groups*. Indeed, such groups would reduce inequalities across firms because they would pool income and capital between firms. This would mitigate the problem of inequality across cooperatives because it would reduce the differences in labor/capital ratios across firms, which is one of its main sources⁶⁴. It is legitimate for public institutions to do so because if they are to support egalitarian organizations such as worker cooperatives (with subsidies for instance), it is important to make sure that they continue to qualify as egalitarian organizations by putting safeguards securing that inequalities between firms do not become too important.

A group of cooperatives like Mondragon creates less inequality between firms. Shared ownership between firms helps cooperatives to avoid many problems as it allows for diversification and all the advantages linked to networking. In fact, since the 1970s, all cooperatives of the initial group ULARCO (later to become FAGOR) started sharing 100% of their profits and losses with the other cooperatives of the group. Ultimately, other groups followed the model and ultimately joined the “Mondragon Corporación Cooperativa”. These various groups and sub-groups have played an important role in fostering diversification, creating new cooperative start-ups or buying bankrupted firms to turn them into cooperatives⁶⁵. Profit-sharing and diversification are very important to secure the long-term stability of the firm. If one cooperative faces temporary difficulties due to market fluctuations, its worker-members can collectively decide to adapt by making pay cuts and reducing working hours, rather than firing people. Moreover, because of Mondragon’s group structure, worker-members in other cooperatives can also provide temporary funding. In the case of FAGOR electrodomesticos (which I will discuss further below), workers in other cooperatives accepted cuts in their own incomes to subsidize the struggling co-op for a while. If a cooperative loses productivity or profitability for a longer period, the group also has the option of closing this particular cooperative, and training and relocating its workers in other cooperatives in the group. In this way, the group provides secure long-life jobs to members.

⁶² Nozick 1974: 251; Dow 2003: 26

⁶³ Contrary to what Nozick (1974: 251) or Dow (2003: 26) seem to assume, promoting worker cooperatives is not about promoting strict equality but is about maximizing the situation of the least well-off.

⁶⁴ Dow 2003 : 26, 272

⁶⁵ Whyte & Whyte 1991: 61, 78-87

This is the reason why Mondragon has almost never laid-off worker-members in its 59 years of existence⁶⁶. Such solidarity is an important advantage of the cooperative model because it secures job stability and reduces capital inequalities between members across cooperatives.

Let's underline here that cooperative groups also help to mitigate another objection related to the impact of workers cooperatives on the fair distribution of capital: aren't workers 'putting all their eggs in the same basket'?⁶⁷ There are three answers to this objection. First, like any other worker in any other firm, worker-members in cooperatives have their own wages (which are often higher than the minimal wage in their country) that they can consume or save and invest as they see fit. Only a part of their savings (15.000 Euros accumulated during the first years of work in the case of Mondragon) can be considered as a suboptimal investment. Indeed, most of the capital in their capital account is extra money that workers in conventional investor-owned firms simply do not get, which makes the fact that it is a suboptimal investment less of a problem. Second, promoting cooperatives groups also has the advantage of diversifying the portfolio of workers in cooperatives. Indeed, cooperatives groups such as Mondragon mitigate the risk for workers of losing their capital with investment schemes allowing firms in productive sectors to subsidize other sectors facing temporary difficulties⁶⁸. Pooling capital and profits thus has insurance features making cooperatives more stable and less vulnerable to fluctuations in specific markets⁶⁹. Third, the remaining fact that a small part of workers' savings is invested in a slightly suboptimal portfolio needs to be balanced with workers' gains in terms of other social primary goods.

iii. Limiting the possibility of outsourcing: Limiting the possibility of outsourcing would finally secure that labor and capital intensive activities are less often separated. For one thing, this would help to limit the number of non-members and false-independents. One way would be to limit the number of non-members allowed to work in each cooperative. This could have two desirable effects. It could incentivize cooperatives to form groups such as Mondragon. It could also incentivize each cooperative to divide tasks in such a way that each worker would get more diverse lists of tasks, which would reduce the need for hiring outsiders.

Policy Proposal 3: Public institutions should promote in priority cooperative groups with decentralized decision-making structures and the internal policy of splitting large cooperatives into small cooperatives whenever it is possible.

Policy Proposal 4: Public institutions should regulate and limit the possibility of outsourcing.

Protection from domination and the quality of democracy

Another distributive objection consists in underlining the possibility of power inequalities and the lack of deliberation within some worker cooperatives. Indeed, there will be some inequalities of power and effective control within worker cooperatives because some people will have more charisma or competence than others. More egalitarian and deliberative collectives could seem preferable⁷⁰. There are two main answers to this objection.

⁶⁶ Malleson 2013: 136

⁶⁷ Malleson 2014: 87, 135

⁶⁸ Dow 2003: 272; Malleson 2013: 87, 135

⁶⁹ I will analyze other efficiency advantages of cooperative groups (Dow 2003: 26, 272; Malleson 2014: 87, 135)

⁷⁰ Nozick (1974: 251) and Dow (2003: 30) mention the existence of power relations within worker cooperatives. For some people, this means that the promotion of egalitarian organization is vain. For others, it means that public institutions should promote even more egalitarian firms such as "egalitarian collectives". Malleson (2014: 69-72, 83) argues that worker cooperatives can solve this problem and he rejects egalitarian collectives.

i. An instrumental conception of democracy: First, let me recall that liberal egalitarianism does not value power equality or democracy “intrinsically”, contrary to some republican intuitions⁷¹. Workplace democracy can only be justified on instrumental grounds, because democratic structures help to distribute primary good in a fair way, including a high level of protection from domination to the least well-off. The decision-making structure only needs to be sufficiently egalitarian in order to secure a high protection from domination to the least well-off. Equal formal decision-making power in worker cooperatives is sufficient to secure to all workers a far better protection from domination than in any inegalitarian capitalist firm. Therefore, public institutions do not need to make sure that all firms develop a perfectly democratic and deliberative workplace giving equal weight and consideration to all workers’ opinions⁷². I will also explain in the section about economic efficiency that representative mechanisms are much more efficient than more egalitarian decision-making structures⁷³.

Rejecting intrinsic conceptions of democracy and adopting an instrumental conception helps to solve important issues. First, any intrinsic conception faces problems when it comes to defining the *demos* of the firm (who should be included in decision-making?). By contrast, with an instrumental conception of democracy, defining the *demos* is easier since the only relevant criterion to decide to whom allocate the right to vote is the distributive impact of such allocation. In a worker cooperative, the best group to which allocate the right to vote in order to reduce inequalities and maximize the situation of the least well-off is workers. Other groups are affected by the decisions of the firm such as consumers or suppliers but there is no need to give them voting rights as long as there is no proof that doing so is necessary to maximize the situation of the least well-off. Second, because promoting workplace democracy is justified as a necessary instrument to maximize the situation of the least well-off, notably to give him access to a social position combining a high amount of each primary good, and to secure the stability of just institutions over time, we do not need to care about whether most people want workplace democracy or not⁷⁴. Third, some wonder what “degree” of democracy is required. Within an instrumental conception, the answer is simple: the degree required to provide a high amount of protection from domination to the least well-off. Of course, non-binding participatory management is not sufficient. But equal formal decision-making power, such as what workers get in worker cooperatives, secures good and stable employment conditions and secures a high level of protection from domination⁷⁵.

ii. Public institutions can promote democratic participation within worker cooperatives: Second, it is important to acknowledge that there are differences in the quality of democracy even in representative democracies. Therefore, if public institutions are to promote worker cooperatives, it is important to put additional safeguards in order to make sure that the benefits of democratic workplaces for the least well-off are protected. Because local democracy is not intrinsically valuable, public institutions can impose a specific democratic model to all cooperatives, or only provide public support to the ones who adopt it, no matter what workers want inside each organization. As Dow underlines it, “the interests of society as a whole may demand that other goals take priority” over what workers want⁷⁶.

⁷¹ Authors like Andreson (2015) or Young (1990: 222-225) have republican intuitions and give democracy an intrinsic value. Young defends an analogy between states and firms and firms with representative democracy would be less just than firms with authentic participation of all workers in decision making.

⁷² As Elster (2013) underlines, public institutions such as juries, assemblies and elections, in real world circumstances, institutions are useful to provide securities against misrule and avoid the worst.

⁷³ On more egalitarian collective, see: Malleson 2014 : 69-72, 83

⁷⁴ This is why the issues of distributive and stability argument were important. Cf. Chapters 3 and 5

⁷⁵ Pérotin 2013: 34-47; Malleson 2013; 2014: 54-92

⁷⁶ Dow 2003 : 42

Therefore, public institutions should regulate worker cooperatives or create incentives to promote effective representative democratic structures. Problems mainly occur when worker cooperatives become bigger, more complex, or form groups. Organizing democratic decisions in such contexts can be difficult, participation may drop, and the voice of each worker can be diluted in the mass. When things go well and workers are confident in the management, participation is not so important. Moreover, many workers acknowledge that whenever some important problem arises, a democratic framework gives them some chance to mobilize and to push for solutions that are in their best interest. Yet, the problem is real in all large cooperatives or democratic firms. Public institutions could promote various solutions.

One solution to make participation and democratic consultation easier, less costly and less demanding for people is to develop online decision-making platforms. Some democratic firms already start using them⁷⁷. Second, cooperatives can respond by proper institutional changes. For instance, Mondragon limits the size of each cooperative in the group by splitting cooperative when production chains can be self-sufficient. This keeps decision-making closer to workers⁷⁸. Moreover, Mondragon created Social Councils which facilitate communication between managers and workers' representatives and stimulate democratic participation. Whyte and Whyte argue that while Government Councils represents the interests of workers as shareholders, Social Councils represent the interests of the same workers as workers. Therefore, Social Councils act a little bit like internal unions. There is some kind of framing effect that makes elected representatives of each council think about specific problems with a specific angle (the angle of long-term profits and stability or the angle of day-to-day working conditions for instance). Moreover, while elected members of the Government Councils often have careers as managers, elected members of Social Councils are workers and are there more temporarily⁷⁹. Of course, despite these changes, managers keep a big influence on decisions and worker participation is often low. Yet, around 30-35% of workers claim to be directly or indirectly involved in decision-making and only 30% say they feel not involved⁸⁰. Therefore, participation in Mondragon is higher than in any conventional firms.

Policy Proposal 3*: Proposal 3 is also a solution here. Public institutions should promote in priority cooperative groups with decentralized decision-making structures and the internal policy of splitting large cooperatives into small cooperatives whenever it is possible.

Policy Proposal 5: Public institutions should help worker cooperatives to develop and use online decision-making platforms.

Self-governing capacities, self-respect and the lack of empirical data

Another distributive objection underlines that there is no reliable empirical data demonstrating that worker cooperatives create better citizens. In fact, there is empirical data showing that participating in worker cooperatives does not raise political participation and even worsen it⁸¹.

But of course, there may be selection bias in both ways. Studies showing that workers in cooperatives participate more in politics do not demonstrate any causal link. These workers could have a sense of justice or some psychological traits that caused them to engage both in

⁷⁷ Davies and Gangadharan discuss in detail online deliberation (Davies & Gangadharan 2009).

⁷⁸ Whyte & Whyte 1991: 38, 58-59, 103

⁷⁹ Whyte & Whyte 1991: 38, 291

⁸⁰ Malleson 2013: 138

⁸¹ Dow (2003: 31-32) underlines these objections. See also, Mansbridge 1995: 1-7

cooperatives and politics⁸². The same is true for studies showing that workers in cooperatives are less politically engaged since both conservatives and anarchists share skepticism towards centralized power, which leads them to value involvement in cooperatives and associations.

Instead, I argued that what is really important for justice is more specific. Public institutions need to secure everyone a fair access to the social bases to develop self-governing capacities but do not need to monitor the actual level of their internal self-governing capacities. On this issue, most empirical data show that involvement in more egalitarian and democratic organizations does help workers to develop self-governing capacities. By contrast, inequalitarian organizations and policies aiming at correcting inequalities fail to nurture or simply to maintain proper conditions to develop self-governing capacities. The bet is that rational people with proper self-governing capacities will understand the importance of political involvement and will be able to develop and exercise a “*sense of justice*”⁸³. Of course, in large cooperatives, low involvement in decision-making does not help workers to develop skills and self-government capacities, but I have already underlined solutions to that.

A similar objection underlines that there is no reliable empirical data demonstrating that work satisfaction or self-respect are better in workers cooperatives. Some empirical data tends to demonstrate that satisfaction at work is not necessarily better in worker cooperatives⁸⁴. But I already argued that a liberal egalitarian framework, promoting worker cooperatives cannot be based on the requirement of “meaningful work” because everyone does not need self-realization and decision-making power *at work* to develop their self-respect. Promoting worker cooperatives is justified simply because is necessary to maximize the protection from domination and the self-governing capacities of the least well-off, which provide them the tools to craft the working conditions they need to develop self-respect.

Inequalities between workers and non-workers

A final distributive objection underlines that worker cooperatives do not solve inequalities between workers and non-workers. How could any organizations qualify as “egalitarian” if they ignore some of the most vulnerable people in society? Indeed, Rawls’ *distributive* conception of justice first investigates which principles of justice should guide the distribution of burdens and benefits of social cooperation between people able to work and fully participating in social cooperation. Therefore, he abstracts temporarily from other important issues. One could object that such an approach forgets individuals outside organizations, such as independents, unemployed, sick and handicapped people. Promoting worker cooperatives seems to be useless for them. It could even worsen their situation by raising prices, by reducing employment (because worker cooperatives tend to maximize income per capita instead of marginal profit per capita, it can lead to less employment) and by reducing funding for welfare programs if a System of egalitarian organizations turns out to be less efficient than Welfare State Capitalism⁸⁵. There are two main answers to this set of objections.

i. Ownership structures and outsourcing: Those independents such as doctors that end up better-off than most workers are not a concern here. Only poor independents are, including small firm owners and “false independents”, which have to accept all the problematic features of an employment contract without being recognized as part of the workforce of the firm. For small firm owners, their situation would be better within a worker cooperative because

⁸² Dow 2003: 31-32

⁸³ Cf. Chapter 5, Section 1.3 and Section 2.3

⁸⁴ Malleson 2014: 77-80

⁸⁵ On how it can worsen the situation of non-workers, see: Nozick 1974: 250-253; Dow 2003: 142

everyone in the firm shares the burden and the risk of managing the firm. As for “false independents”, public institutions can regulate worker cooperatives to limit the possibility of outsourcing. Because firms are nexuses of contracts, they are nexuses of control that helps monitor working conditions, salaries, etc⁸⁶.

Policy Proposal 2*: Proposal 2 is also a solution here. Public institutions should make Mondragon’s ownership structure mandatory for all worker cooperatives and set by law a maximum ratio of non-members.

Policy Proposal 4*: Proposal 4 is also a solution here. Public institutions should regulate and limit the possibility of outsourcing.

ii. *Egalitarian organizations and insurance mechanisms:* A System of egalitarian organizations would also raise the situation of victims of bad luck such as unemployed and handicapped people. First, people working but having talents with less market value will probably end up in the least well-off social positions. However, public institutions are still required to maximize their position no matter their marginal productivity⁸⁷. Second, many differences of natural goods between people today (like illness or handicap), are produced by our massively unjust institutional arrangements. Realizing a just distribution between social positions would solve the source of many of these problems⁸⁸.

But third, even if within a System of egalitarian organizations the risk of unemployment or illness remains a crucial issue, this is not an objection against a System of egalitarian organizations. In fact, this is a good example to illustrate the importance of considering a whole *system* of egalitarian organizations in all sectors of the economy. In a System of egalitarian organizations, insurance organizations should manage the risk for anyone to lose his position or to face health costs, and the organizations taking care of these risks should also be egalitarian. In order to maximize the prospects of everyone over their complete life, it is rational to implement health and social insurance schemes to prevent or compensate for the risks faced by everyone to fall out of the cooperative scheme for a while⁸⁹. But there are egalitarian and inegalitarian ways to structure insurance companies. For instance, without public intervention, private insurance companies face the risk of adverse selection. To solve this problem, they will try to accumulate more information about their clients. They will end up offering advantageous insurance policies for low-risk individuals and very costly policies for high-risk individuals with bad social and health antecedents. They may even refuse to cover risky individuals. This can create inequalities *inside* or *between* insurance companies. A more egalitarian and more efficient way for public institutions to organize insurance schemes is to pool risks on the entire population by implementing public and mandatory social and health insurance schemes. This is why, in order to secure fair equality of opportunity and to maximize the prospects of the least well-off over their complete life, public institutions need to implement egalitarian social and health insurance organizations⁹⁰.

⁸⁶ On the “sharing economy” and work regulations, see: Schor 2014

⁸⁷ Rawls 2001: 170-176; Pogge 2002: 196-204; Van Parijs, in Freeman 2003: 215

⁸⁸ Pogge 2002: 186-187, 196-197. About social determinants of health, see Daniels (2008: 61, 79-88).

⁸⁹ Rawls 2001: 170-176

⁹⁰ Dow 2003: 129-132. For Heath (2011: 33-37) public insurance schemes are egalitarian *and* more efficient. Insurance markets are characterized by information asymmetry. Insurance companies have less information than their clients on the risk they face. In order to secure their profits, they raise prices. Therefore, only people knowing they face high risk of some disadvantage will afford to buy insurance policies because others will see insufficient expected value for it. This system only selects high risk clients and fails to make low risk individuals to contribute to the scheme. This is called *adverse selection* (Dow 2003: 129-132; Heath 2011: 34-37).

4 – How to tackle efficiency objections?

I argued that worker cooperatives are able to realize a more just distribution of all primary goods inside and between them. I refuted some objections against this claim and, whenever there was a legitimate concern about their capacity to deliver positive distributive outcomes, I argued that public institutions should implement policies to preserve the egalitarian character of worker cooperatives. Now, other objections target the efficiency of worker cooperatives.

I will show how to demonstrate that worker cooperatives can be very efficient. Of course, public institutions should aim at realizing justice, not efficiency itself and promoting worker cooperative is still justified even if they are a bit less efficient. Yet, efficiency is instrumentally important to some extent in order to maximize the situation of the least well-off. As I said earlier, in order to solve remaining issues about the substitutability of primary goods (in Chapter 3) and mitigate the efficiency argument for Welfare State Capitalism (in Chapter 4), I need to demonstrate that worker cooperatives are reasonably efficient.

Access to capital

A first efficiency challenge faced by worker cooperatives is access to capital. One explanation is that people and financial institutions have less trust in worker cooperatives than in conventional capitalist firms. In many countries, many people have never heard of worker co-ops, and when they have, they often think that worker co-ops are necessarily little and inefficient or involved in some social housing and land-decontaminating project. This does not only push people away from starting cooperatives, it also makes people suspicious about cooperatives and financial institutions more reluctant to lend them money. By contrast, in regions where cooperatives are more common such as the Basque Country (in Spain) or Quebec (in Canada), in which there are important production and financial cooperatives, workers, consumers and financial institutions trust the model and more cooperatives seem to flourish⁹¹. There are also structural reasons why worker cooperatives have a more difficult access to capital. Investor-owned firms can raise capital by selling shares. Investors in such firms buy the right to control the firm (including the rights to residual profits). This is why it is attractive for rich people to put their money in such firms. By contrast, worker cooperatives cannot rely on equity to raise capital⁹². There are various ways to solve this problem.

i. Fostering trust in the cooperative model: Public institutions should be the first to trust the cooperative model and should alleviate some of the legal barriers that people often face when they want to start a cooperative. They should also help to provide information and foster trust in cooperatives. They should incentivize universities and business schools to teach the cooperative model by providing research grants to study worker cooperatives. They should also include collective ownership or working conditions among the criteria to allocate public contracts, indirectly favoring cooperatives and thus showing confidence in the model⁹³.

ii. Public subsidies: Public institutions should provide public subsidies or publicly guaranteed loans to help people launching new worker cooperatives and help existing ones to get easier access to capital. Public institutions should also develop specific tax credits and subsidies to help workers to buy firms threatened with closure and to transform them into co-ops. This will be especially required during the transition period from Welfare State Capitalist societies

⁹¹ On historical and cultural explanations, see: Dow 2003: 137-139

⁹² Dow (2003: 185-186) underlines that access to capital is an important problem faced by worker cooperatives.

⁹³ Malleson (2014: 86) mentions the importance of education.

to System of egalitarian organizations. Such subsidies have been proposed in many countries after the 2008 crisis (in France, the minister Benoît Hamon proposed the idea in 2012).

iii. Ownership structure and capital: Public institutions should promote Mondragon's specific property structure which helps capitalization. Mondragon solved the problem of access to capital thanks to the radical and innovative property system I mentioned earlier. Along with the fact that the "Caja Laboral" (a cooperative bank) provided Mondragon with loans, this property system is the main factor explaining the rapid capitalization experienced by the group in its early years. Cooperatives in Mondragon are initially financed by members' "social share". In 2014, the social share (the price) necessary to buy your membership was about 15 000 Euros. Depending on the cooperative, new workers often have 18 to 36 months to accumulate it. This is one source of capital. But nobody owns regular shares (as portions of the value of the firm). Instead, all members have a *capital account*. The residual profit is transferred directly to members' capital accounts. The constitution requires investing 10% of profits in community projects (culture or education for instance). An important share of profits (about 50%) is also kept in a reserve fund to make sure the cooperative can face eventual difficulties. The rest is transferred to worker-members' capital accounts according to their pay level and working hours. But there are particular restrictions limiting how workers can use their capital: worker-members cannot sell their social shares to outsiders and they cannot take the money in their account until they leave the cooperative or retire. Basically, everything works as if workers were providing a long-term loan to their own cooperative⁹⁴.

A property model with such restrictions has many advantages. First, the separation of regular "wages" and "profits" secures a steady income for workers. Second, fixing the cost of membership has the advantage that social shares do not rise when the value of the firm rises, otherwise, that would make it very difficult for new people to join. Third, because nobody can sell his social share to outsiders, workers remain the only ones to take decisions in the firm. Fourth, separating capital shares and governance rights allows respecting the principle of one-member-one-vote while allowing workers to accumulate different amounts of capital depending on their preferences⁹⁵. But this property model is also very useful to accumulate capital. The diversification of activities inside groups is itself a way to provide access to capital to new firms or pool profits to make collective investments⁹⁶. Moreover, because the profits in capital accounts are there only "on paper" and because members can't withdraw their capital very easily, the firm has a stable stock of capital which it can rely on for everyday activities and long-term investments. This model allowed Mondragon to experience a rapid capitalization, especially during the first decades of rapid growth in the 1960s and 1970s.

iv. Help to attract private capital: Even if Mondragon has managed to overcome the problem of capitalization thanks to the Caja Laboral and its particular property system, access to capital is an important challenge for many cooperatives, especially in unequal societies like ours. Public institutions should thus help worker cooperatives to attract private capital.

They should foster indirect finance and work with financial institutions to develop specific financial products (such as long-term loans) helping to raise money without ceding control rights⁹⁷. For example, researchers in Quebec are working on specific kinds of long-term loans to provide financial products to people who want to invest in cooperatives⁹⁸. They should also

⁹⁴ Whyte & Whyte 1991: 3-52; 177-192

⁹⁵ Whyte & Whyte 1991: 42-43; Malleson 2013: 130-134

⁹⁶ Dow 2003: 272; Malleson 2013: 135

⁹⁷ Fleurbaey 1993; Williamson in O'Neil & Williamson 2012a: 239; Malleson 2014: 154-163

⁹⁸ Chantier de l'économie sociale 2014. On the need for other concrete projects of loans to small firms and cooperatives and long term investments, see for instance: Stiglitz 2016; Delaney 2016

support local cooperative banks following the example of the Caja Laboral that would be committed to supporting worker cooperatives⁹⁹. Public institutions should finally develop certifications to provide proper information to people who want to invest in more egalitarian firms as a form of responsible investment.

Policy Proposal 2*: Proposal 2 is also a solution here. Public institutions should make Mondragon's ownership structure mandatory for all worker cooperatives. Besides avoiding degeneration, it also helps capitalization in periods of growth.

Policy Proposal 6: Public institutions should foster trust in worker cooperatives. Public institutions should openly support the model, educate people about it, and collaborate with universities and business schools by funding research projects on worker cooperatives.

Policy Proposal 7: Public institutions should include collective ownership or working conditions among the criteria to allocate public contracts.

Policy Proposal 8: Public institutions should create public loans, tax credits, and subsidies to help people launching new worker cooperatives. They should also facilitate the takeover of firms in financial difficulties by employees and give them the choice first, before anyone else.

Policy Proposal 9: Public institutions should work with financial institutions to develop specific financial products (such as long-term loans) raising money without ceding control rights. They should also support local cooperative banks following the example of the Caja Laboral that would be committed to supporting worker cooperatives.

Policy Proposal 10: Public institutions should develop certifications to provide proper information to people who want to invest in worker cooperatives as a form of responsible investment. They could also go further and influence consumers' choices by actively promoting responsible consumption and investments in cooperatives.

Transaction costs due to democratic decision-making

Another major challenge faced by worker cooperatives such as Mondragon is to preserve democratic decision-making processes in the face of rapid expansion while remaining efficient. The problem is that democratic processes involve higher transaction costs. Decisions take more time because more people are directly involved and, most importantly, because workers tend to have quite heterogeneous interests. Shareholders, by contrast, share the same homogeneous interest in making more profit. According to Hansmann, this is (alongside more difficult access to capital) what makes worker cooperatives less efficient and explains why cooperatives are less common than capitalist investor-owned firms in today's markets¹⁰⁰. But, worker cooperatives can mitigate or compensate for these costs in at least three ways.

i. Fostering democratic representation: Worker cooperatives can implement democratic representation in order to reduce transaction costs¹⁰¹. In Mondragon for instance, the General Assembly only meets once a year. The various elected Councils are composed of small numbers of people with specific tasks. Managers can focus on applying the decisions of the Government Council and hearing the claims of Social Councils. Because they are appointed by workers and because they can also be removed by workers, managers still have an incentive to act in everyone's interests without the need for workers to constantly participate.

⁹⁹ Whyte & Whyte 1991: 49-52, 68-88, 177-192; Malleson 2014: 154-163

¹⁰⁰ Hansmann 1996: 11-88, 119

¹⁰¹ Hansmann 1996: 98

ii. Workers in cooperatives are more productive: Workers within cooperatives tend to have a stronger motivation to work. There are many reasons for that. First, they have a financial incentive to organize work efficiently and to be more productive because they own the firm and their income and capital directly depends on the success of the firm. Second, workers develop intrinsic motivations to be more productive and make the best product because they manage their own business democratically and working structures are less hierarchical¹⁰².

iii. Cooperative structures reduce some costs: First, workers have more confidence in each other and understand the reasons behind the rules because decision-making is more democratic. Such an increased trust among workers reduces supervision costs because hierarchical supervision structures are costly compared to peer-supervision¹⁰³. Deakin underlines the productivity advantages of passing from a calculative trust, where each party is ready to face the other in case of a conflict, to a goodwill trust based on training and long-term collective projects, where the fairness of treatments, job satisfaction and high quality of work create a co-operation environment within the enterprise¹⁰⁴. Second, managers are not the only ones with management abilities. Democratic decision-making is not only useful to unleash workers' creativity, but it also helps to transmit information from the production floor to management much more efficiently¹⁰⁵. Indeed, there are epistemic advantages to workplace democracy which help cooperatives to make more intelligent management decisions¹⁰⁶.

These three answers show that worker cooperatives can compensate for higher transaction costs due to democratic decision-making. In fact, many studies show that cooperatives are as efficient and productive as capitalist firms¹⁰⁷. Yet, public institutions could help worker cooperatives to reduce transaction costs by fostering cheaper democratic decision-making.

Policy Proposal 5*: Proposal 5 is also a solution here. Public institutions should help worker cooperatives to develop and use online decision-making platforms.

Stimulating innovation

Another efficiency challenge faced by many cooperatives is innovation. There is as much incentive to innovate in a worker cooperative as in any other firm evolving in an open market. Dynamic competition with other cooperatives or other firms stimulates innovation. In fact, as Schumpeter underlines, actual competition is not necessary to stimulate innovation. The *threat* of competition is sufficient. If a firm sells a product of low quality and/or at a too high price, and if entering a market is cheap, then there is always a risk that other firms will invest and will create in no time a better product at a lower price thanks to innovation. This threat incentivizes firms to innovate¹⁰⁸. The real problem of cooperatives derives from their difficult access to capital. Access to capital is necessary to be able to invest in innovation. Because cooperatives are often small and have difficulties attracting capital, they have a hard time investing in research and development. On the long run, they fail to adapt to competition¹⁰⁹.

¹⁰² Malleson 2014: 73

¹⁰³ Fleurbaey 1993: 218, 220, 225; Malleson 2014: 73

¹⁰⁴ Deakin 2000: 57

¹⁰⁵ Malleson 2014: 73

¹⁰⁶ On the epistemic value of democracy, see for instance: Ober 2008; Landemore 2012

¹⁰⁷ Pérotin 2013: 34-47; Malleson 2013; 2014: 72-76. Dow (2003: 121-126) is also skeptical that difference in transaction costs and resulting efficiency can explain the rarity of worker cooperatives in the real world.

¹⁰⁸ Schumpeter [1947]: 81-86. See also: Van Parijs 1995: 214-220

¹⁰⁹ Mondragon has solved this problem (Whyte & Whyte 1991: 65)

One solution is, of course, to make access to capital easier for which I already underlined some solutions. But another solution is specific to innovation: worker co-ops can collectivize research and innovation. Mondragon found two solutions to the challenge of innovation which are two different ways to collectivize research and innovation.

i. Fostering the contact between research institutions and business actors: Public or private universities can help firms to innovate in at least two ways. First, they provide firms with young skilled workers with up-to-date knowledge of techniques and technologies that can help firms stay ahead of competitors. Second, they conduct research that firms can then commercialize¹¹⁰. In the case of Mondragon, the group founded the Mondragon University in 1997, a second-degree cooperative which currently has more than 4000 students. Of course, all cooperatives do not have the option of creating a university. This is why states should fund public universities and facilitate the commercialization of research findings by little and medium sized firms. Moderate competition between researchers is a powerful incentive to innovation, and the education of new generations of managers and workers is crucial for the economy. But public institutions can also fund public industrial research centers with which small firms could contract with for specific research projects. This is the case for example in Quebec: the provincial government funds the CRIQ, a public industrial research center making innovation accessible to small and medium-sized firms. Such public research centers allow firms to take advantage of economies of scale in research infrastructures¹¹¹.

ii. Fostering collective research centers: Public institutions should learn from Mondragon's experience and help worker cooperatives to make the most of the networking opportunities such as collectivized research and innovation. Mondragon took advantage of its network to create a second-degree cooperative, IKERLAN. IKERLAN now includes fifteen industrial research centers, employing more than 400 researchers, and leading projects in some of the most advanced fields of industrial research like aeronautics, health technologies, construction, sustainable development, and management. The Garaia Park also provides a meeting space for the University, the researchers, and representatives of all cooperatives in the group. Initially, IKERLAN was mainly financed by the cooperatives of the Mondragon group. Firms that are members of IKERLAN make research contracts and get discount prices. They receive a monthly report of all technologies and methods developed by the research centers and can immediately use them. Today, the cooperative also includes firm-members that are not cooperatives, from outside the Mondragon group. Moreover, any firm can ask for a research contract with IKERLAN even if they are not members. Yet, if they want exclusivity for research results they have to pay prohibitive fees¹¹². Today, IKERLAN also receives public funding from the Basque government to fund competitive graduate scholarships.

Policy Proposal 11: Public institutions should fund public industrial research centers with which small firms could contract for specific research projects. Such public research centers allow firms to take advantage of economies of scale in research infrastructures.

Policy Proposal 12: Public institutions should put their coordinating capacity at the disposal of cooperatives to develop networks. They should also provide specific subsidies to help to launch private collective industrial research centers following the example of IKERLAN.

¹¹⁰ Mondragon 2012; Matthews 2013

¹¹¹ For more information on the CRIQ, see: <https://www.criq.qc.ca/en/>

¹¹² Whyte & Whyte 1991: 63; Mondragon 2012; And personal interviews conducted in 2014

Preserving the advantages of dynamic competition

Another efficiency challenge raised against public support for egalitarian organizations such as worker cooperatives consists in saying that this would threaten the advantages of free and competitive markets. But the answer to this challenge is straightforward. The promotion of egalitarian organizations is compatible with a market economy and preserves the dynamic benefits of competition: it only changes the kind of organizations competing on the market.

Philosophers and economists have long been interested in public intervention in the market. During centuries, most western economic systems were mercantilist. Many states developed strong national economic policies aimed at accumulating monetary reserves through a positive balance of trade. Mercantilism included high tariffs benefiting local manufacturing goods, state recognition of monopolistic companies, and many other limitations on free trade. Such policies frequently led to wars and mercantilism was one important motivation for colonial expansion¹¹³. Many philosophers and economists such as Adam Smith became strong critics of mercantilism. They argued against acquaintances between states and merchants and mercantilism in general. Instead, they were advocates of free markets, arguing that mechanisms such as division of labor, trade, and competition for consumers, as well as comparative advantages between nations, were essential to the wealth of nations¹¹⁴.

Yet, in western countries, the 19th century saw industrialization and the development of a more advanced capitalism. This led to economic growth, population growth and rapid urbanization. Traditional forms of solidarity were weakened (family networks, charity organizations, feudal relations or municipalities), which massively increased the poverty of the working class¹¹⁵. Criticism started to arise against capitalism. Marx's proposition for communism was based on the idea that such a system would free workers from exploitation and alienation because it would be more efficient. The development of productive forces would, therefore, lead inevitably to the triumph of communism over capitalism¹¹⁶.

In early 20th century, claims that communist planned economies were more efficient than market capitalist ones relied on three arguments. First, economic planning allowed fixing prices and allocating resources more efficiently, while decentralized capitalist free market economies were anarchical and lacked coordination. Second, planned economies were avoiding the accumulation and destruction of *material capital* created by capitalist economies business cycles and crises. Third, economic planning helped to avoid the waste of *human capital* that these business cycles, crises and the unemployment coming with it were creating. By contrast, free market economies with their business cycles and frequent crises would lead to prolonged and wasteful periods of unemployment¹¹⁷. It took the effort of 20th century economics to revise this belief and demonstrate that in fact, free market economies were more efficient. Three major economists answered these three challenges.

i. Friedrich Hayek answered the first challenge and argued that centralized economic planning was not efficient due to the enormous amount of information that would be necessary to manage a modern economy at the national level. He underlined like Smith before him the role of the price mechanism in a market economy to transmit important information between producers and consumers and to coordinate resource allocation in a decentralized way¹¹⁸.

¹¹³ Smith, Adam [1776]; Keynes [1953]: 333

¹¹⁴ Smith, Adam [1776]

¹¹⁵ Castles & Al. (eds.) 2010: 3-5

¹¹⁶ Marx [1867]; Arnsperger & Van Parijs 2003: 43-48

¹¹⁷ Van Parijs 1995 : 203-220 ; Arnsperger & Van Parijs 2003: 47-48

¹¹⁸ Hayek (1944); Arnsperger & Van Parijs 2003: 47-48

ii. *Joseph A. Schumpeter* answered the second challenge and argued that centralized economic planning was not efficient due to the lack of incentive for innovation. Market competition and business cycles (including crisis) were in fact far better to create new businesses, to stimulate innovation, and to get rid of old economic structures. This was the phenomenon he called “creative destruction”. Even if crises could lead many firms to bankruptcy and many workers to unemployment, they were beneficial overall since it was stimulating dynamic competition and pushing firms to innovate to survive. Financial and human capital would be reallocated from inefficient economic activities to more efficient and more useful activities¹¹⁹.

iii. *John Maynard Keynes* finally answered the third challenge. He argued that the waste of financial and human capital due to economic cycles could be mitigated by public investments, market regulations, and redistribution. Public investments were not only a way to secure economic efficiency and avoid prolonged periods of wasteful unemployment but also a way to make sure that efficiency gains allowed by market mechanism were benefiting everyone instead of harming poor and unemployed people. This third answer achieved to demonstrate that centralized planning was inefficient and that market economies were more efficient despite (in fact, because of) decentralized decision-making, business cycles and crises¹²⁰.

Public intervention to promote egalitarian organizations is compatible with the preservation of the advantages of market economies analyzed by Hayek, Schumpeter, and Keynes. Whether the system is composed of egalitarian worker cooperatives or inegalitarian investor-owned capitalist firms, these organizations will evolve within competitive markets with all the same dynamic effects. The difference between a System of egalitarian organizations and a Welfare State Capitalism is only what kind of institutions competes inside the market. The real debate should be about the choice between a “cooperative market economy” and a “capitalist market economy”, by reference to the kind of organizational ownership that prevails or dominates in the market¹²¹. However, if we can conclude without a doubt that competitive markets have undeniable economic advantages, this does not mean that we should necessarily aim at a pure and perfect competitive market such as the ones neo-classical economists imagine. Indeed, it is important to remember that liberal egalitarianism does not require maximizing efficiency *tout court*. Promoting efficiency is only desirable as long as it is useful to maximize the situation of the least well-off, which means that market regulations limiting overall efficiency but maximizing the situation of the least well-off are perfectly legitimate.

Let me also note that economists acknowledge that real contemporary markets are always imperfect and face market failures. Market regulations are important to mitigate market failures. For instance, antitrust laws can secure genuine competition, regulations of advertisement can avoid information asymmetries, Pigouvian taxes can help to promote positive externalities and internalize negative externalities into market prices, and nationalizations of key public goods (such as national defense and roads) can avoid free riding and the resulting undersupply of such goods¹²².

¹¹⁹ Schumpeter [1947]: 81-86. See also: Van Parijs 1995: 214-220

¹²⁰ Keynes [1953]: 113-131. See also: Van Parijs 1995: 210-214

¹²¹ Fleurbaey 2006 : 7-23

¹²² Stiglitz & al. 2007: 221-352

Lipsey & Lancaster (1956-1957: 11-32) also draw an interesting conclusion from the fact that pure and perfect markets are impossible in real life markets. They argue that from the assumption that pure and perfect market would be the 1st best, i.e. the most efficient system, there is no reason to assume that being closer to a pure and perfect market would lift us closer to the most efficient system. There is a very real possibility that being close to a pure and perfect market but not entirely there would be massively inefficient. In this case, the 2nd best would be a well regulated market that only preserves the benefits of dynamic competition. On this, see: Heath 2009: 65-80

Market failures and competition between egalitarian and inegalitarian firms

Cooperatives can overcome some of the most important efficiency challenges they face. One of their main disadvantages is access to capital, especially in very unequal societies in which few investors own a lot of financial capital. Nonetheless, Mondragon has met this challenge and public institutions can help cooperatives to do so. As for operational efficiency, there are indeed higher transaction costs in cooperatives but representative structures can reduce them and the advantages of intrinsic motivation and peer-supervision can compensate for the remaining costs. Moreover, even if a cooperative cannot fire members, it can adapt to market fluctuations by adjusting wages or working hours. In the case of a federation of cooperatives like Mondragon, they can even adapt by transferring financial and human resources from one cooperative to another in the group and reassigning workers from failing cooperatives. Finally, there are ways for co-ops to stimulate innovation. The empirical research underlines that, given a proper design, worker cooperatives can be viable and very efficient¹²³.

Yet, if cooperatives are so advantageous and can be so efficient, a question remains. Why are there so few cooperatives? Besides relative operational efficiency, there are other ways to explain the domination of capitalist firms in contemporary markets¹²⁴. One of the main factors is precisely the existence of the market failures mentioned above. Worker cooperatives have to compete against other international capitalist firms which are not respecting the same standards and have therefore competitive advantages. In the case of Mondragon, competitiveness has been an increasingly pressing issue since Spain entered the European common market in 1987. First, capitalist firms do not have to abide by the same standards of wages and working conditions than cooperatives. Moreover, in some situations, being able to fire workers can be a competitive advantage. Finally, capitalist firms can save money by moving to countries where taxes, labor laws and other regulations are less demanding. Lower standards and higher flexibility can sometimes give conventional investor-owned firms a competitive advantage over cooperatives¹²⁵. The answer to this challenge is the following.

Economic theory assumes that public interventions in the market should be limited because a free market is best able to track individuals' preferences, to coordinate production and to allocate resources in the most efficient way, i.e. the way that maximizes aggregate preference satisfaction. There is also a presumption that the market selects the most efficient forms of organizations¹²⁶. Therefore, if egalitarian organizations were best able to satisfy people's preferences, there is a presumption that the market would select them. Public interventions are only legitimate to tackle market failures, which are cases in which the conditions of perfectly competitive markets are not observed, therefore leading to inefficiency¹²⁷. In order to argue in favor of public support for egalitarian organizations and sanctions against inegalitarian ones, we would need to be able to demonstrate that the undersupply of egalitarian organizations and the domination of inegalitarian ones in the market are due to market failures¹²⁸. There are at least three market failures justifying the promotion of egalitarian organizations.

i. Inequalities and the influence of wealthy people: One condition of a perfectly competitive market is that there must be an infinite number of sellers and consumers so that each of them has, as a result, a negligible impact on market outcomes. But in real markets, there is a

¹²³ Dow 2003: 41-44, 260-290; Pérotin 2013 : 34-47; Malleson 2013; 2014: 54-92

¹²⁴ See for instance: Whyte & Whyte 1991: 3-30; Dow 2003: 135-139; Elster 1989: 93-111

¹²⁵ Malleson 2013: 146-151

¹²⁶ Hansmann 1996: 1-52; Fleurbaey 2008b: 104

¹²⁷ Stiglitz & al. 2007: 221-352

¹²⁸ Fleurbaey 2008b: 122, Dow 2003: 41

definite number of actors and there are important inequalities of purchasing power between them. This is a market failure because, as a result, all producers and consumers don't have and equivalently negligible market power. In particular, the preferences of rich people have a much more important impact on market outcomes. This leads to an undersupply of egalitarian organizations and an oversupply of inegalitarian one because the latter serves the short-term interests of wealthy people¹²⁹. The arguments provided in Chapter 5 suggest that tax-and-transfer policies would be insufficient to correct the distributive outcomes of this market failure. Other interventions are required such as public support for egalitarian organizations.

ii. Positive externalities of egalitarian organizations and negative externalities of inegalitarian ones: Egalitarian organizations produce positive externalities and avoid producing some of the negative externalities produced by inegalitarian organizations. Public support and regulations in favor of egalitarian firms and sanctions against inegalitarian ones would be a way to reward egalitarian organizations for the positive externalities they produce and to internalize the negative externalities produced by inegalitarian organizations¹³⁰.

At first sight, because egalitarian organizations tend to create more stable jobs while in inegalitarian organizations job stability is more affected by market fluctuations, it seems that inegalitarian organization could raise the costs of unemployment programs, which could be considered as a negative externality. But interventions in favor of egalitarian organizations and against inegalitarian ones would not necessarily be justified on this ground. Indeed, the empirical evidence tends to show that egalitarian and inegalitarian organizations are comparable in terms of employment creation¹³¹. Moreover, paying unemployment benefits only involves money which means that public institutions could simply taxes and redistribution to internalize the negative externalities that the cost of unemployment benefits represents¹³². What is more important is the kind of employment that organizations create. The two arguments I provided in the last chapter help to identify the externalities at stake.

First, egalitarian organizations produce at least one important positive externality: they secure a just distribution of all social primary goods, including protection from domination, self-governing capacities, and self-respect. By contrast, inegalitarian firms externalize the costs of realizing a just distribution social primary goods, thus forcing public institutions to constantly spend resources in order to fund welfare programs, training programs to secure workers' self-governing capacities, and forcing unions and civil society to spend resources to protect workers from domination. Crucially, my first argument shows that these inequalities will never be adequately compensated by redistributive taxation. Therefore, inegalitarian organizations will always create negative externalities linked to power inequalities, competition, stress, and the lack of self-governing capacities or relational goods. This will increase the need for specific programs targeting the daily problems faced by the least well-off such as the lack of access to education, housing and child care, higher rates of criminality, teen pregnancy, health problems, mental illness, and the use of drugs, and so on¹³³.

Second, the stability argument shows that any system tolerating inegalitarian organizations creates a higher risk of institutional instability because it increases institutional complexity, it creates problematic incentives and it fails to provide everyone with the conditions to exercise their sense of justice. The negative externality created by inegalitarian organizations here is

¹²⁹ Malleson 2014: 95-98

¹³⁰ Fleurbaey 2008b: 122-123

¹³¹ Pérotin 2013: 34-47; Malleson 2013; 2014: 54-92

¹³² On Pigouvian taxes, see: Van Parijs 1995: 200-201

¹³³ Fleurbaey 2008b: 122-123; Wilkinson, Pickett 2010: 18-24

the risk of instability itself, which can also be understood as a risk of future negative externalities that everyone would have to pay for if corrupt governments and internal conflicts lead to the collapse or the alteration of cooperation. As long as public institutions tolerate inegalitarian organizations and do not promote egalitarian ones, Pigouvian taxes will always fail to internalize all these negative externalities into the market system¹³⁴.

iii. Local and global public goods: Marc Fleurbaey finally points out that egalitarian organizations (or democratic firms) could be considered as public goods. A public good is something that everyone has reasons to want but that is undersupplied because of collective action problems such as the lack of coordination in the market or free riding.

Egalitarian organizations could first be seen as *global public goods*. Indeed, competition *between* firms on the market works in favor of inegalitarian ones. This is the case for many reasons but not the least because, as I just said, egalitarian organizations produce positive externalities involving more costs, while inegalitarian organizations can externalize important costs on everyone. Inegalitarian firms would thus outcompete egalitarian ones on a free market, increasing even further the magnitude of these negative externalities. Therefore, even if many people want to work in egalitarian organizations, the lack of coordination in the market provides a competitive advantage to inegalitarian organizations.

Fleurbaey also argues that egalitarian organizations are *local public goods* because free riding *inside* organizations prevents individuals from feeling the need for an active commitment to the promotion of democracy at their level. As a result, organizations lose their egalitarian character over time or never develop it¹³⁵. Therefore, as Fleurbaey underlines, if some (rich) people individually prefer inegalitarian organizations such as undemocratic firms, they will impose on the whole society greater inequalities and all the resulting negative externalities¹³⁶. Tackling these negative externalities requires sanctions against inegalitarian organizations.

Public intervention in favor of egalitarian organizations is therefore justified not only to realize justice but also to tackle these market failures. As Dow underlines:

if [promoting egalitarian organizations such as labor-managed firms] yields efficiency gains because some market failure is being rectified, subsidies may be justified for that reason alone. But even if there is an efficiency loss, society may still subsidize transition to worker' control in some or all firms because the other values at stake are deemed sufficiently important¹³⁷.

Therefore, public intervention to promote egalitarian organizations may be justified even within the framework of standard economic theory, as a way to correct market failures deriving from wealth inequalities, negative externalities, and collective action problems¹³⁸. Promoting egalitarian organizations would yield efficiency benefits. Public institutions should go further to level the playing field and tackle 'unfair' competition. On top of all the previous proposals to help worker cooperatives to compete with other firms in the market, here are some general steps that could lead to the dominance of worker cooperatives in the market

i. Promoting cooperative groups and networking: One of the main solutions was already mentioned and consists in promoting cooperative groups and networking. Promoting cooperative groups is very important in particular to secure the competitiveness of worker

¹³⁴ On externalities, see: Elster 1989: 98-99. On Pigouvian taxes, see: Van Parijs 1995: 200-20

¹³⁵ Fleurbaey (2008b: 122) says this can justify the promotion of workplace democracy.

¹³⁶ Fleurbaey 2008b: 123

¹³⁷ Dow 2003: 44

¹³⁸ Fleurbaey 2008b: 122-123

cooperatives and foster mutual support between cooperatives. As we have seen in the last pages and as Malleson underlines very clearly, networks provide a wide range of political, social and economic benefits. To begin, networking provides important political benefits:

a league provides increased leverage to lobby for political support; it helps to build a strong and vibrant political presence; and it helps maintain a culture of workplace democracy that prevents workers from feeling isolated and thus helps develop a new sense of the normality of workplace democracy¹³⁹.

Then, networking also provides important social benefits because, as I have underlined, it helps to make sure that worker cooperatives remain egalitarian organizations. Promoting cooperative groups with decentralized decision-making structure and the internal policy of splitting large cooperatives into small cooperatives whenever it is possible is useful to maintain income and wealth inequalities inside and across firms, to make sure that democratic decision-making remain close to the reality of workers and therefore to secure the benefits in terms of protection from domination, self-governing capacities, and self-respect.

Networking finally provides various economic advantages. Group ownership structures similar to the one in Mondragon make access to capital easier. As a result, and thanks to the possibility of collectivizing research and innovation, it fosters innovation. Cooperative groups also help to stabilize employment because they help cooperatives to adapt to market fluctuations by sharing the costs of temporary crises in specific sectors or by relocating workers in other firms of the group. Dow underlines many economic advantages:

An attractive way for employees to diversify away risks is through partial pooling of incomes across member firms within a federation... Aside from the evident static advantages of centralizing services for which there are scale economies, a federation helps workers' control become self-reinforcing in a dynamic sense. As the federation expands, financial reserves will be accumulated, opportunities for risk pooling will grow, more specialized services can be offered and lessons can be drawn from earlier experience. Over time, individual firms will likely derive greater advantage by joining, and workers facing the decision of whether to create a labor trust will become more confident or receiving professional support if they do so¹⁴⁰.

Malleson underlines some similar economic advantages:

Additional economic benefits of networking include: sharing risks through cross investment, so that workers' eggs are in many baskets; familiarizing regional workers, managers, bankers, and politicians with co-op practices; developing consortia to establish economies of scale; and providing examples of successful firms for others to emulate¹⁴¹.

ii. Implement a regulative environment friendlier to cooperative: Public institutions should go further in order to provide competitive advantages to worker cooperatives. They should, for instance, make the regulative environment friendlier because labor or corporate regulations often handicap worker cooperatives. Dow underlines that this is one possible explanation of the underrepresentation of worker cooperatives in the market, even if it is marginal compared to other factors. Indeed, some think that the organizational structures of firms have co-evolved with other factors such as the law and regulatory institutions. The current regulative environment is thus biased in favor of capitalist firms¹⁴². For instance, Dow and Elster both

¹³⁹ Malleson 2014: 87

¹⁴⁰ Dow 2003: 262-273

¹⁴¹ Malleson 2014: 87

¹⁴² Dow 2003: 135

underline the importance of granting worker cooperatives the decisive advantage of limited liability for instance (which was not and is not always the case even today)¹⁴³.

Public institutions should also implement labor and trade regulations at home and seek international cooperation with other countries in order to favor worker cooperatives and avoid fiscal and social dumping. Today instead, social and fiscal competition between nations leads to a race to the bottom in terms of social protections and taxation. Capitalist firms get important competitive advantages over worker cooperatives due to the fact that they can delocalize their activities in the jurisdictions that are the most advantageous in terms of labor and fiscal regulations. Of course, some international trade treaties may forbid states to implement that kind of regulations, but states should find ways around them and may ultimately need to renegotiate them if necessary to allow for populations to have a real sovereignty to choose their economic system.

Finally, public institutions should gradually impose more egalitarian standards to all firms. They should do so not only by providing advantages to egalitarian organizations such as worker cooperatives but also by gradually starting to punish inegalitarian organizations. They should for instance tax more heavily inegalitarian firms in order to internalize negative externalities and to incentivize their conversion into worker cooperatives.

iii. Public institutions should gradually make worker cooperatives the mandatory form of organization in the production of goods and services: Public institutions should also implement institutions such as labor trusts helping to convert capitalist firms into worker cooperatives. As Dow explains, labor trusts would be legal entities through with employees buy a firm's equity shares on the stock market¹⁴⁴. The role of such trusts is similar to that of an employee stock ownership trust but it differs from it for the important reason that its ultimate aim is to buy the firm. Gradually worker cooperatives should become the mandatory form of organization for the production of goods and services.

Policy Proposal 3*: Proposal 3 is also a solution here. Public institutions should promote in priority cooperative groups with decentralized decision-making structures and the internal policy of splitting large cooperatives into small cooperatives whenever it is possible.

Policy Proposal 13: Public institutions should make the regulative environment friendlier to worker cooperative which is not the case right now.

Policy Proposal 14: Public institutions should implement labor regulations at home and seek international cooperation in order to avoid fiscal and social dumping abroad.

Policy Proposal 15: Public institutions should impose more egalitarian standards to all firms. Not only should public institutions support actively worker cooperatives. They should also tax more heavily inegalitarian firms as a way to internalize negative externalities.

Policy Proposal 16: Public institutions should implement institutions, such as labor trusts, helping to gradually convert capitalist firms into worker cooperatives.

Policy Proposal 17: Public institutions should gradually make worker cooperatives the mandatory structure for all economic organizations producing goods and services.

¹⁴³ Elster 1989: 104; Dow 2003: 136. People I met in Mondragon also underlined that many countries had a regulative environment that was hostile to the development of worker cooperatives.

¹⁴⁴ Dow 2003 : 262-276

5 – Are there exceptions and limits?

A System of egalitarian organizations can be implemented gradually. Most policies sketched out in the last two sections could be implemented right away in our non-ideal circumstances. Legal reforms to make sure that worker cooperatives remain egalitarian organizations can be implemented immediately. Public loans, tax credits and subsidies in favor of cooperatives may start low at first and become more and more important over time. But of course, supporting local cooperative banks and developing cooperative networks and groups may take longer. Finally, sanctioning inegalitarian firms with extra taxes or regulations and making sure that worker cooperatives gradually become the mandatory form of organization are more radical policies. Such policies may face political resistance and may have to be implemented only when the transition is well advanced in order to avoid potential economic perturbations.

Now that I have provided a general argument in favor of promoting egalitarian organizations and in particular worker cooperatives, it is important to underline that there will probably be *exceptions*. Some firms, because they have special features, might need to be exempted from the requirement of becoming egalitarian and to be immune from the policies affecting other firms. A worker cooperative may also not be the best model to organize some economic activities (such as higher education, energy production or social insurance). Moreover, there are *limits* to what worker cooperatives can achieve. As I will underline, some of these limits point at the need to promote egalitarian organizations in other sectors of the economy as well. But studying in details all these exceptions and limits would require many more chapters. This last section is more an invitation to explore possible exceptions and limits but I will not take any stance on the cases I will raise. This would require much more research.

Exceptions: Religious associations, public institutions, small organizations...

I said that economic organizations are to be regulated in a way that promotes egalitarian organizations because they play a central role in the just distribution of primary goods and the stability of society as a whole. But there may be *exceptions*, for two types of reasons.

i. The special purpose of some organizations: The main purpose of most economic organizations is the production of goods and services. If imposing egalitarian requirements to one organization makes the pursuit of some secondary life purpose impossible inside the organization, people always have the possibility to pursue it outside the firm. But for some organizations, imposing egalitarian requirements on them could jeopardize their main purpose and make this purpose impossible to pursue anywhere. This could be a reason for exemption.

The most obvious case is religious associations. For instance, the existence of the Catholic Church is essential to the pursuit of catholic belief and traditions. In the Catholic tradition, the Pope is supposed to be representing God on Earth and is believed to carry His word. If egalitarian requirements were imposed on the Catholic Church, for instance, if all members of the Catholic Church could propose their candidacy to become Pope in an election involving all members, it would change the doctrine of Catholicism and could threaten freedom of religion. The same reason could justify exempting public organizations from egalitarian requirements. The activity they perform may be a concern for everyone (higher education, energy production, social insurance) which may justify the creation of public organizations in the first place. Therefore, even if there could be internal democratic consultation or decision-making when it comes to deciding about the working conditions of their members, public organizations could be exempted from egalitarian requirements inside them¹⁴⁵.

¹⁴⁵ Malleson 2014: 43-44. See also a similar idea in: Dow 2003: 42

ii. *The likelihood for some types of firms to create inequalities:* In the case of religious organizations again, priests represent very few social positions and it is reasonable to assume that most people who choose priesthood as a career value others things than income, wealth, and power (at least today). Moreover, if the internal organization of religious associations does have an impact on the distribution of power inside the organization (between priests), it has no great impact on the distribution of primary goods between members and believers in general. Therefore, imposing egalitarian requirements on religious associations may not be necessary to realize the requirements of distributive justice. The presumption of formal freedom of association and formal freedom of religion could thus require allowing religious organizations to decide themselves about their internal structure.

Small firms also tend to create less inequality. If this can be verified, exempting some small firms – say firms of less than 10 employees – from egalitarian requirements would allow preserving the benefits of capitalist firms in terms of flexibility. Creating some very flexible low-skilled jobs can be useful for small firms as well as for some people looking for temporary jobs, such as students who want summer jobs during their studies. The same goes for small associations that have very little impact on the distribution of primary goods, such as philatelist associations or local sports clubs (although big sports clubs paying large salaries to their players would need to be regulated). Because the arguments for promoting egalitarian organizations are not based on any intrinsic value but on the distributive impact of egalitarian organizations, the kinds of organizations or associations having an insignificant impact on distributive inequalities could be exempted from egalitarian requirements.

Limits: the need for egalitarian organizations in other economic sectors

i. *Even egalitarian organizations create small inequalities:* This is the case for inequalities of income and capital. We saw that public policies can mitigate these problems to some extent but small inequalities will remain. If these inequalities are necessary to create the proper incentives to work and allocate resources where it is most needed, they are justified. But public institutions should still impose some kind of taxation, within the limits of what preserves the incentives in the market, in order to redistribute money even more and maximize the situation of the least well-off. Does this contradict the argument of this thesis? No. In a System of egalitarian organizations, initial inequalities between social positions would be very low and the least well-off would have access to a social position combining a high amount of each social primary good. The need for corrective mechanisms would, therefore, be very limited, and the smaller initial inequalities will be, the lighter redistributive policies will need to be. Moreover, this will allow simplifying the tax system as Thomas Piketty recommends¹⁴⁶. This is why, in a System of egalitarian organizations, the distributive and stability problems raised by corrective mechanisms would be mitigated.

Moreover, if organizations are more egalitarian and in particular if they distribute power inside the firm more equally in order to maximize the protection from domination of the least well-off, the collective bargaining function of unions would not be necessary anymore. Indeed, workers would have direct decision-making power inside their firm. However, some decisions about working conditions would still need to be negotiated across firms or imposed by law on entire sectors of the economy. Think about work safety norms or bans on polluting products for instance. Unions would still be useful to this task, as platforms to help negotiations across firms or as lobby organizations to help craft new, well-informed legislation. But of course, unions would be less heavy and would probably never use strikes

¹⁴⁶ Landais, Piketty & Saez 2011: 7-8; 116

anymore which would reduce the problems of complexity and bad perceptions which often create legitimacy problems in the public opinion¹⁴⁷.

ii. *Injustices outside the scope of worker cooperatives*: The organization of work in the production of goods and services is not the only source of inequalities¹⁴⁸. We should target the origin of all forms of inequalities. To begin, I have not talked about the *production of ideas* (innovation)¹⁴⁹. Contrary to tangible goods, intangible goods (such as music) have low reproduction costs and are non-rival. If the system allows excluding people from the use of these ideas, through patents or copyright law, wealthy owners will be able to reproduce them at a negligible cost, sell them and make important profits while poor owners will not be able to pay the cost of preventing illegal copies. Public or collective funding for research or artistic production could be seen as more egalitarian ways to organize the production of ideas.

The way we coordinate (or not) *consumption* can also create various social and economic inequalities¹⁵⁰. Therefore, public institutions should target the origin of these inequalities as well. What justice requires from the coordination of consumption has attracted very little attention in the philosophical literature yet. Some argue in favor of the promotion of collaborative consumption associations allowing shared access to the use of goods instead of the individual ownership of consumption goods. This is a pressing issue given the rise of the “sharing economy” (sharing goods instead of owning them individually). This term designates a mix of very different kinds of consumption associations, such as Zipcar, Uber, and Airbnb. We would need to evaluate various forms of collaborative consumption associations and evaluate which ones contribute most to reducing inequalities. For instance, some could help to reduce the cost of living and avoid inefficient consumption while others would not¹⁵¹.

Organizations *managing risks* can also create or maintain inequalities of opportunities and social primary goods. *To begin*, I underlined in this chapter how social and health insurance systems are important to insure people against the risk of losing their income or their health, and why this was the appropriate answer to these risks. I argued that social and health insurance organizations should also be egalitarian organizations. *Then*, one important source of risk in our societies is also the risk of investments. Motivating people to invest their savings in the economy is important to stimulate growth and to make capital accessible and help firms to invest in research and development. But investments involve the risk of losing the capital invested. The financial system manages this risk. Some authors propose that public institutions should promote egalitarian and democratic financial organizations. Today, financiers’ power to provide or restrict credit or businesses’ power to control investments decisions is undemocratic. It provides few people with more political and economic influence than others¹⁵². We should investigate the specific inequalities created by the structure of financial organizations and what to do about them. For instance, should we pool (at least partially) the risks of investments? Should we give more power to local communities on investment choices? What justice requires from organizations managing investment risks, especially concerning the creation of inequalities, has not been thoroughly investigated yet¹⁵³.

¹⁴⁷ Rouillard 1991: 277, 291- 295, 305

¹⁴⁸ Hansmann 1996; Dow 2003; Malleson 2014; Bostman & Rogers 2010

¹⁴⁹ Malleson 2014: 43-44; Pogge 2011

¹⁵⁰ Researchers have already investigated various ways to coordinate consumption and the rise of collaborative consumption. See for instance, Hansmann 1996; Dow 2003; Malleson 2014; Bostman & Rogers 2010; O’Neill & Williamson 2012a; Belk 2014; Schor 2014

¹⁵¹ Choi 2001; Waldman 2003

¹⁵² Malleson 2014: 137-138, 154-163.

¹⁵³ Fleurbay 1993; Dow 2003; Williamson & al. 2003; Birchall 2013; Malleson 2014

Conclusion – Public institutions should promote worker cooperatives

In Chapter 6, I began the task of explaining in more details what a System of egalitarian organizations would be and which organizations would qualify as egalitarian. If egalitarian organizations are to be promoted, we need to know which organizations exactly meet our normative requirements. Indeed, it is also the role of philosophers to articulate normative theories with available empirical data and draw conclusions about how to realize justice through public policies. I focused on one case-study in the organization of production. Based on up-to-date empirical research in economics and social sciences, I answered the following question: *Why should public institutions promote worker cooperatives?*

The *results* are the following. I argued that, given the institutional arrangements securing the other principles, a System of egalitarian organizations is sufficient to realize the difference principle in a stable way. Given proper regulations, worker cooperatives can deliver the expected distributive outcomes and mitigate the stability problems that any systems tolerating inequalitarian organizations would raise. I also tackled the main distributive and efficiency objections against the claim that worker cooperatives should be promoted. Among other things, I have shown how they can be very efficient provided proper support by public institutions. This solves some remaining issues raised by the substitutability of primary goods (discussed in Chapter 3) and helps to downplay one of the arguments in favor of Welfare State Capitalism (discussed in Chapter 4). Yet, I have underlined the possible existence of some exceptions and limits to my argument. These limits, among other things, point towards the need for egalitarian organizations in other sectors.

The *contribution* of this chapter consists in two main points. First, I applied the liberal egalitarian argument developed in previous chapters to the case of public intervention in favor of worker cooperatives. Second, I have also shown how to tackle objections often raised against this proposition. Most of the objections are valid concerns but can be tackled with proper policies. This is why I gathered 17 policy proposals to promote worker cooperatives.

I conclude that anyone serious about realizing justice and looking for alternative ways to organize social cooperation should consider promoting egalitarian organizations and in particular worker cooperatives. It is certainly an important step in the right direction and with proper safeguards, it could achieve a great deal for social justice.

We should, therefore, share John Stuart Mill's optimism:

The form of association,... which if mankind continues to improve, must be expected in the end to predominate, is not that which can exist between a capitalist as chief, and work... people without a voice in the management, but the association of the labourers themselves on terms of equality, *collectively owning the capital* with which they carry on their operations, and working under managers *elected and removable* by themselves¹⁵⁴.

John Stuart Mill, one of the main liberal thinkers and a preeminent economist of his time, already underlined almost two centuries ago the two main intuitions in favor of more egalitarian organizations such as worker cooperatives. For him, the cooperative model was the best way to secure freedom and autonomy to workers, in part because it was useful to develop their abilities and secure their dignity. For him, it was also important for workers to develop a “democratic spirit”¹⁵⁵. He was optimistic that such a model would change society:

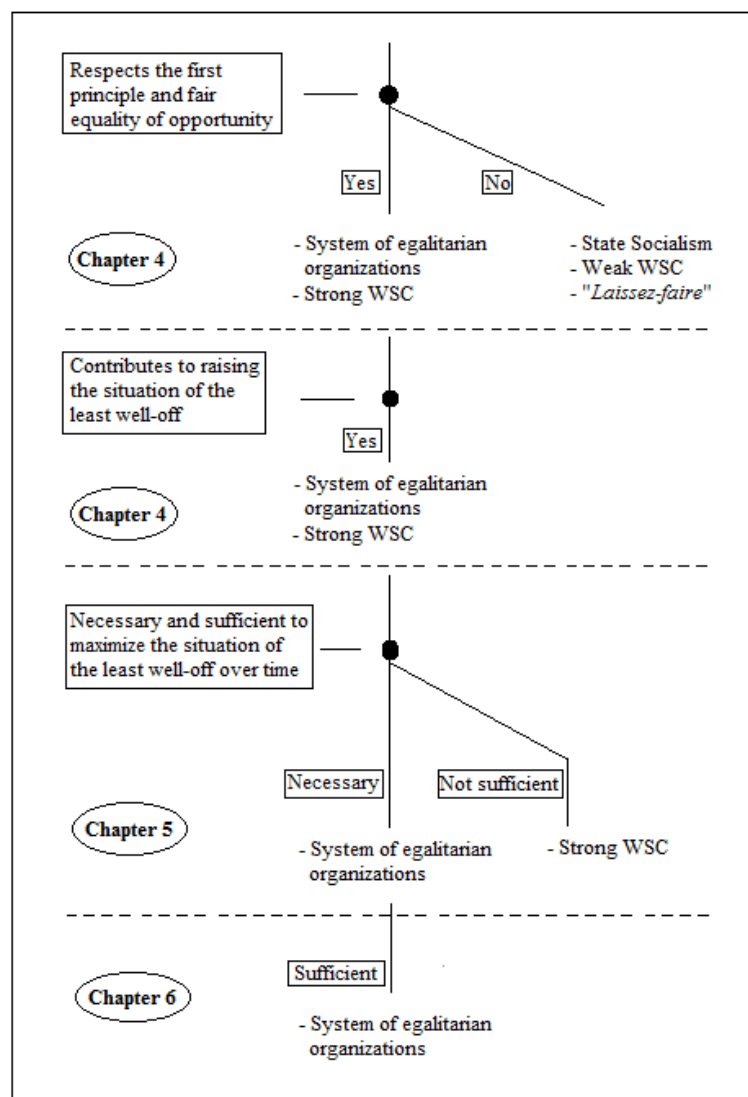
¹⁵⁴ Mill [1848] 2008: 147 (*my italics*)

¹⁵⁵ Mill [1848] 2008: IV.7 § 6

“from a conflict of classes struggling for opposite interests, to a friendly rivalry in the pursuit of a good common to all; the elevation of the dignity of labour; a new sense of security and independence in the laboring class; and the conversion of each human being’s daily occupation into a school of the social sympathies and the practical intelligence”¹⁵⁶.

What’s next? Liberal egalitarian justice requires the implementation of a System of egalitarian organizations. Public institutions need to dedicate public resources and coordinating efforts to promote egalitarian organizations in all sectors of the economy such as the production of goods and ideas, risk management, finance, consumption, housing, etc. They also need to get rid of all inegalitarian organizations in these sectors. This thesis sets a research agenda for political philosophy, asking for more investigation about why public institutions should promote egalitarian organizations in all these sectors. Therefore, the ultimate aim of this thesis is to contribute to change the way we think about how to tackle distributive injustices.

Progression of the argument



¹⁵⁶ Mill [1848] 2008: IV.7 § 6

Conclusion

Justice Requires Egalitarian Organizations

Of course, it is part of our role, as political philosophers, to say what needs to be done long before it becomes politically realistic, [...] because desirable things would never become politically feasible in the first place if we don't start thinking about them, arguing for them, advocating them long before they are politically feasible.

Philippe Van Parijs – *Basic Income as an Instrument for Justice and Peace, Final Session of the 13th Congress of the Basic Income Earth Network*

1 – The question of our time

The question of our time is whether or not we are prepared to take on the enormous political and economic inequalities of the globe and to experiment alternative social systems. Today, most of the global wealth is owned by a fraction of the world's population and billions of human beings live in poverty. These important income and wealth inequalities undermine political equality, equality of opportunity and social mobility. The declining power of states and unions has worrying effects on the sustainability of welfare programs and the capacity of workers to defend their basic rights. In many countries, wages and working conditions are stagnating or getting worse and unemployment is rising¹. In addition, frenetic and useless economic development pushed by extreme competition threatens the environment and the long-term stability of the natural conditions necessary to the prosperity of human societies².

The traditional answer adopted by many countries to solve these political and economic inequalities is a complex web of policies such as legal restrictions on the use of money in politics, redistributive tax systems, welfare programs, support to unions, and so on³. The underlying belief is that such compensation mechanisms are sufficient to realize social justice. Everything seems to be done to avoid intervening too much in the regulation and structure of economic organizations such as firms. Most countries limit corporate regulations to what is necessary to respect shareholders' interests and secure an efficient market. Therefore, public institutions generally refrain from interventions that would incentivize or force firms to changes their ownership structures to distribute financial and human capital more fairly or to implement democratic decision-making procedures to empower workers within the firm⁴.

¹ Avi-Yonah 2000; Pogge 2005; OECD 2011; Stiglitz 2012; UN 2013; Piketty 2013

² OECD 2013-2014

³ O'Neill & Williamson 2012b

⁴ O'Neill & Williamson 2012b

The United Nations (UN), in a report about the social situation of the world entitled “Inequalities matters”, has underlined the importance of doing more to reduce inequalities and to promote more sustainable forms of development benefiting everyone⁵. However, in a recent report on inequalities by the Organization for Economic Cooperation and Development (OECD), “Divided We Stand: Why Inequalities Keep Rising?”, experts underline that “redistribution strategies based on government transfers and taxes alone would be neither effective nor financially sustainable” because they may create problematic incentives and because most states operate under a reduced fiscal space⁶. Therefore, other ways to reduce inequalities must be investigated. In this thesis, I have investigated why international, national and local public institutions should do what is necessary to promote egalitarian organizations such as worker cooperatives and democratic firms in various sectors of the economy as a way to block the creation of inequalities in the first place.

As a thesis in political philosophy, this research project is relevant to theoretical debates about the scope and limits of legitimate state intervention in the economy. It is also relevant to debates about whether the best socio-economic system or set of policies to realize justice should be one that promotes egalitarian organizations or a Welfare State Capitalism that limits its intervention to compensatory mechanisms while tolerating inegalitarian organizations. This thesis is a valuable contribution to contemporary debates in the philosophical community because surprisingly, what justice requires from the regulation of economic organizations generating inequalities had not been thoroughly investigated yet.

But this thesis is also relevant for practice. To begin, it can simply contribute to developing public awareness about egalitarian organizations and foster trust in this alternative way to coordinate social cooperation and economic activity. Moreover, based on the normative framework and empirical analysis provided in this thesis, I gathered 17 concrete policy proposals aiming at promoting egalitarian organizations. This thesis can, therefore, guide public authorities in fighting inequalities. Finally, the concrete examples analyzed in the last Chapter such as Mondragon can be an inspiration for private actors and citizens who are willing to participate in the creation a System of egalitarian organizations.

Disputes about the best socio-economic system have been going on for a long time. But the core of this debate used to oppose “state-owned” socialist economies and “capitalist” free market economies. However, there are other alternatives and the future of our society should not be seen in any of these two systems. Instead, many authors have recently argued to go beyond this opposition and proposed that what justice required was to change the “capitalist” feature of market systems, by changing the ownership of economic organizations rather than rejecting the “free market”⁷. The core difference between a System of egalitarian organizations and a Welfare State Capitalism is the *kind* of institutions competing on the market. The real debate concerns the choice between a “cooperative market economy” and a “capitalist market economy”, by reference to the kind of organizational ownership⁸.

Therefore, this thesis is part of a large movement growing all around the world and proposing to change the way we think about economic systems and social progress. We underline how authoritarian economic organizations create inequalities of income and wealth, but also inequalities of power, self-governing capacities, and self-respect, and undermine stability.

⁵ UN 2013

⁶ OECD 2011

⁷ Fleurbaey 2006: 7-23; Malleson 2014. Of course, the market is never “free”: it is heavily regulated.

⁸ Fleurbaey 2006: 7-23

2 – Justifying a System of egalitarian organizations: Summary

In this thesis, I argued for a liberal egalitarian conception of justice. In Chapter 1, I argued that a public intervention is legitimate if and only if it is necessary to realize distributive justice, which means that there is no less intrusive alternative to do so. This does not change anything to the first principle. The first principle only stipulates that for some basic formal freedoms, there is an additional criterion. In their case, they can only be restricted in an equal way for everyone. This means that justifying any public intervention requires demonstrating that such intervention is *necessary* to realize the requirements of distributive justice, which includes demonstrating that there is no less intrusive alternative to realize the same goal.

Second, in order to evaluate which public interventions are necessary to realize distributive justice, we need to define clearly the requirements of distributive justice. In Chapter 2, I argued that public institutions should distribute social primary goods between social positions. This includes income and financial capital, i.e. the social bases of purchasing power but also the social bases of protection from domination, the social bases of self-governing capacities and the social bases of self-respect. I also recalled the argument leading to the second principle which includes a requirement to maximize the real freedom of the least well-off by maximizing the bundle of social primary goods attached to the least well-off social position.

In Chapter 3, I tackled the indexing problem. I argued that that maximizing the real freedom of the least well-off is more likely to require giving him access, as much as possible, to a social position combining a high amount of each social primary good. These clarifications helped to build the case for a System of egalitarian organizations and against other systems.

As I said, disputes about the best socio-economic system have been going on for a long time. The core of this debate used to oppose “state-owned” socialist economies and “capitalist” free market economies. But in Chapter 4, I argued that the future of our society should not be seen in any of these two systems. Instead, many authors have recently argued to go beyond this opposition and proposed that what justice required was to change the “capitalist” feature of market systems, by changing the ownership of economic organizations rather than rejecting “free market”. Indeed, we have seen that a System of egalitarian organizations is compatible with and complementary to a market economy. What would change is only the kind of organizations evolving and competing on the market. Therefore, we would have a “cooperative market economy” instead of a “capitalist market economy”.

In Chapter 4, I have argued that in a liberal egalitarian framework, a proper argument in favor of a System of egalitarian organizations needs to respect at least two characteristics. First, the promotion of egalitarian organizations can only be justified by *liberal*, non-perfectionist arguments. Therefore, they can only be justified on *instrumental* grounds, as a way to realize liberal egalitarian principles of distributive justice. Second, the argument must not be based on *contingent* failures of other alternatives such as the current Welfare States, but on *necessary* failures of all forms of Welfare States, even the strongest versions. Therefore, I argued that the proper strategy consists in demonstrating that promoting egalitarian organizations is required since a Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize justice requirements because it fails to correct all unjust outcomes produced by inequalitarian organizations.

This strategy also has the advantage of being able to refute the two main arguments supporting a Strong Welfare State Capitalism. According to the first argument, a System of egalitarian organizations restricts formal freedom more heavily than a Strong Welfare State

Capitalism. But even if there is a presumption of formal freedom, any intervention *necessary* to realize distributive justice is legitimate and even required by justice. There is no absolute priority of liberty over distributive goals⁹. Second, according to the second argument, Welfare State Capitalism is more efficient and therefore better able to maximize the situation of the least well-off. But as soon as efficiency does not help the least well-off, it is no longer desirable, because “laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust”¹⁰. Therefore, in both cases, public interventions to promote egalitarian organizations are legitimate as soon as we demonstrate $\neg A$: A Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize justice requirements because it fails to correct the unjust outcomes of inequalitarian organizations.

In Chapter 5, I exploited this weakness and I provided two liberal egalitarian arguments based on up-to-date empirical evidence suggesting that $\neg A$ is true. First, the “distributive argument” demonstrates that systems tolerating inequalitarian organization, such as Welfare State Capitalism, create inequalities in terms of protection from domination, self-governing capacities, and self-respect that cannot be compensated by mechanisms such as taxation, welfare programs or unions. This is why *more* organizations should be egalitarian. Second, the “stability argument” demonstrates that systems tolerating inequalitarian organizations tend to be unstable because they create institutional complexity, problematic incentives and fail to provide everyone with the conditions to exercise their “sense of justice”. This is why *all* organizations should be egalitarian. Therefore, any socio-economic system tolerating inequalitarian organizations, such as a Strong Welfare State Capitalism, *even in its strongest version*, is always insufficient to realize the requirements of justice because it fails to correct all unjust outcomes produced by inequalitarian organizations. I concluded that in order to realize justice, it is necessary for public institutions to implement a System of egalitarian organizations and to get rid of all inequalitarian organizations.

In Chapter 6, I argued that given the institutional arrangements necessary to secure the other principles, a System of egalitarian organizations is sufficient to realize the difference principle in a stable way. I began by explaining in more details what a System of egalitarian organizations would be and which organizations qualify as egalitarian. I focused on one case study in the organization of production. I argued that given proper regulations, specific forms of worker cooperatives qualify as egalitarian organizations according to the definition I provide in this thesis. Therefore, they can deliver the expected distributive outcomes and mitigate the stability problems that any systems tolerating inequalitarian organizations would raise. I also tackled the main distributive and efficiency objections against the claim that worker cooperatives should be promoted. Importantly, I have shown how, provided with the proper support from public institutions, they can be very efficient.

Liberal egalitarianism thus requires implementing a System of egalitarian organizations. Of course, other theoretical frameworks could produce similar arguments and lead to similar conclusions but because I think that liberal egalitarianism is the most legitimate framework and because arguments from different frameworks could contradict one another, I chose to focus on liberal egalitarianism. I conclude that public institutions need to dedicate resources and coordinating efforts to promote egalitarian organizations in all sectors of the economy such as the production of goods and ideas, risk management, finance, consumption, housing, etc. I thus set a research agenda for political philosophy, asking for more investigation about why public institutions should promote egalitarian organizations in all these sectors.

⁹ Rawls 1993: 291-292

¹⁰ Rawls 1971: 3

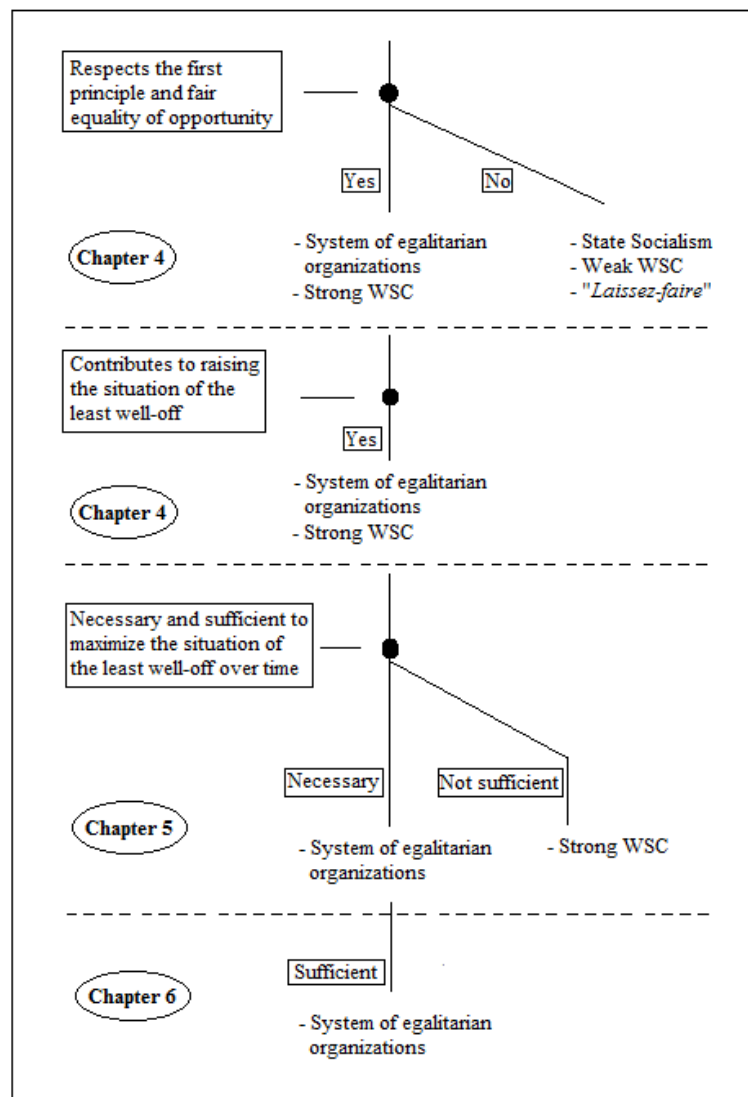
Let me summarize the progression of the argument in Chapters 4, 5 and 6.

In Chapter 4, I argued that State Socialism, Weak Welfare State Capitalism and “*Laissez-faire*” Capitalism do not respect the first principle and fair equality of opportunity. I also argued in Chapter 4 that both a System of egalitarian organizations and a Strong Welfare State Capitalism respect the first principle and fair equality of opportunity and both contribute to raising the situation of the least well-off. The choice between these two systems must, therefore, be made according to their respective capacity to maximize the situation of the least well-off. If a Strong Welfare State Capitalism is sufficient to realize all the requirements of justice, then a System of egalitarian organizations is not necessary and therefore public institutions are not legitimate to promote egalitarian organizations. However, if Strong Welfare State Capitalism is not sufficient to realize the requirements of justice, then promoting a System of egalitarian organizations becomes necessary to realize justice.

In Chapter 5, I provided two arguments demonstrating $\neg A$: Strong Welfare State Capitalism, *even in its strongest version*, is always *insufficient* to realize the requirements of justice because it always fails to correct all the unjust outcomes produced by inequalitarian organizations. This is why it is *necessary* to promote egalitarian organizations.

In Chapter 6, I argued that promoting egalitarian organizations is *sufficient* to realize justice, at least as far as the difference principle is concerned. I also analyzed one case study.

Progression of the argument



3 – Policy proposals to promote worker cooperatives

If public institutions are to promote egalitarian organizations such as worker cooperatives and support them with public funding, for instance, it is important to put additional safeguards to secure their egalitarian character. Indeed, the mere legal form of worker cooperative is not sufficient to secure more distributive justice. It needs to be supplemented by proper regulations fostering internal distributive equality. Moreover, public support is very important to promote worker cooperatives and to reduce their competitive disadvantages on the market. Based on the normative requirements of theories of justice and the economic problems faced by worker cooperatives, I gathered from the literature 17 policy proposals that public institutions should start implementing right away, or gradually, in order to realize justice.

First, public institutions should make sure that worker cooperatives remain egalitarian.

Policy Proposal 1: Public institutions should support in priority worker cooperatives with the lowest internal income and wealth inequality ratios. If some cooperatives start to create too large income and capital inequalities between members, they should be denied public support.

Policy Proposal 2: Public institutions should make Mondragon's ownership structure mandatory for all worker cooperatives and set by law a maximum ratio of non-members.

Policy Proposal 3: Public institutions should promote in priority cooperative groups with decentralized decision-making structures and the internal policy of splitting large cooperatives into small cooperatives whenever it is possible.

Policy Proposal 4: Public institutions should regulate and limit the possibility of outsourcing.

Policy Proposal 5: Public institutions should help worker cooperatives to develop and use online decision-making platforms.

Second, public institutions need to make access to capital easier for worker cooperatives.

Policy Proposal 6: Public institutions should foster trust in worker cooperatives. Public institutions should openly support the model, educate people about it, and collaborate with universities and business schools by funding research projects on worker cooperatives.

Policy Proposal 7: Public institutions should include collective ownership or working conditions among the criteria to allocate public contracts, indirectly favoring cooperatives and demonstrating confidence in the model.

Policy Proposal 8: Public institutions should create public loans, tax credits, and subsidies to help people launching new worker cooperatives. They should also facilitate the takeover of firms in financial difficulties by employees and give them the choice first, before anyone else.

Policy Proposal 9: Public institutions should work with financial institutions to develop specific financial products (such as long-term loans) raising money without ceding control rights. They should also support local cooperative banks following the example of the Caja Laboral that would be committed to supporting worker cooperatives.

Policy Proposal 10: Public institutions should develop certifications to provide proper information to people who want to invest in worker cooperatives as a form of responsible investment. They could also go further and influence consumers' choices by actively promoting responsible consumption and investments in cooperatives.

Third, public institutions should foster collective research and innovation.

Policy Proposal 11: Public institutions should fund public industrial research centers with which small firms could contract for specific research projects. Such public research centers allow firms to take advantage of economies of scale in research infrastructures.

Policy Proposal 12: Public institutions should put their coordinating capacity at the disposal of cooperatives to develop networks. They should also provide specific subsidies to help to launch private collective industrial research centers following the example of IKERLAN.

Fourth, on top of all the previous propositions, public institutions should gradually impose egalitarian requirements to all firms.

Policy Proposal 13: Public institutions should make the regulative environment friendlier to worker cooperative which is not the case right now.

Policy Proposal 14: Public institutions should implement labor regulations at home and seek international cooperation in order to avoid fiscal and social dumping abroad.

Policy Proposal 15: Public institutions should impose more egalitarian standards to all firms. Not only should public institutions support actively worker cooperatives. They should also tax more heavily inegalitarian firms as a way to internalize negative externalities.

Policy Proposal 16: Public institutions should implement institutions, such as labor trusts, helping to gradually convert capitalist firms into worker cooperatives.

Policy Proposal 17: Public institutions should gradually make worker cooperatives the mandatory structure for all economic organizations producing goods and services.

The advantage a System of egalitarian organizations over other systems is that it can be implemented gradually. Most policies underlined here could be implemented right away in our non-ideal circumstances. Legal reforms to make sure that worker cooperatives remain egalitarian organizations can be implemented immediately. Public loans, tax credits and subsidies in favor of cooperatives may start low at first and become more and more important over time. But of course, supporting local cooperative banks and developing cooperative networks and groups may take longer. Finally, punishing inegalitarian firms with extra taxes or regulations and making sure that worker cooperatives gradually become the mandatory form of organization are more radical policies. They may encounter political resistance. Moreover, they would have to be implemented when the transition is already well advanced in order to avoid economic perturbations.

Finally, private actors can also start getting involved and assume more responsibilities voluntarily. Firms and other collective actors should voluntarily start implementing democratic decision-making processes to make sure that internal decisions reflect the views of all their members, especially for issues on which they have direct control, such as wages, the distribution of profits, working schedules, division of labor and so on. There are many institutions such as the International Cooperative Alliance that are able to provide counseling and support for people willing to start their own worker cooperative or to democratize their firm¹¹. Private actors should also dedicate efforts and resources to help public institutions crafting public policies to support worker cooperatives. They should engage in political CSR and ethical lobbying and participate positively to law-making¹².

¹¹ Mills & Davies 2013

¹² Néron (2010: 13-17) argues in favor of the implication of firms into political lobbying.

4 – What about other organizations? : Extending the research agenda

A System of egalitarian organizations would be one in which public institutions use public resources and do what is necessary to promote egalitarian organizations in all sectors of the economy. Such a system would promote organizations distributing *all* primary goods more equally *within* and *between* them, including purchasing power, protection from domination, self-governing capacities, and self-respect. Such a system would do so in all sectors of the economy because the kind of activity and the organizational structure of economic organizations lead to specific kinds of inequalities in each sector.

In this thesis, I investigated how to tackle the specific inequalities generated by the organization of production. I argued that public institutions are legitimate to promote egalitarian organizations since alternative policies, such as the redistributive mechanisms of the Welfare State, always fail to correct all unjust outcomes produced by inequalitarian firms.

Organizations managing *production* are responsible for the creation of social positions attached to wages and shares of the firm, decision-making power, and division of labor inside the firm for instance. Evidence shows that worker cooperatives often have low wage gaps, they provide a democratic environment in which everyone has a right to participate in decision-making or at least has his interests represented. They also provide more stable employment because they react to market fluctuations by adjusting hours or wages instead of firing workers. They finally secure healthier working conditions because the interests of the workers are taken into account. By contrast, investor-owned firms create income inequalities, have hierarchical structures and make it easier for managers to fire workers¹³.

Now, other aspects of the economy can create specific kinds of inequalities as well. Public institutions should target the source of each kind of inequalities by promoting egalitarian organizations in all sectors of the economy. For instance, I focused on the production of tangible goods and services. I have not talked about how to organize the *production of ideas*¹⁴. Contrary to tangible goods, intangible goods (such as music) have low reproduction costs and are non-rival. If the system allows excluding people from the use of ideas, for instance, through patents or copyright law, rich owners will be able to reproduce them at a negligible cost, sell them and make important profits while poor owners will not be able to pay the cost of preventing copies. Public or collective funding for research or artistic production could be seen as more egalitarian ways to organize the production of ideas.

But the organization of production is not the only source of unjust inequality. The way we coordinate (or fail to coordinate) *consumption* can also create various social and economic inequalities¹⁵. Therefore, public institutions should target the origin of these inequalities as well. What justice requires from the coordination of consumption has attracted very little attention in the philosophical literature yet. Some argue in favor of the promotion of collaborative consumption associations allowing shared access to the use of goods instead of the individual property of consumption goods. This is a pressing issue given the rise of the “sharing economy” (sharing goods instead of owning them individually). The term designates a mix of very different kinds of consumption associations, such as Zipcar, Uber, and Airbnb.

¹³ Dahl 1985: 132; Whyte & Whyte 1991: 44-45; Dow 2002: 57-66; Malleson 2014: 27-33, 56, 76-83.

¹⁴ Malleson 2014: 43-44; Pogge 2011

¹⁵ Researchers have already investigated various ways to coordinate consumption and the rise of collaborative consumption. See for instance: Hansmann 1996; Dow 2003; Malleson 2014; Bostman & Rogers 2010; O'Neill & Williamson 2012a; Belk 2014; Schor 2014

We would need to evaluate various forms of collaborative consumption associations and evaluate which ones contribute most to reducing inequalities. Some could help to reduce the cost of living and avoid inefficient consumption while others would not for instance¹⁶.

Organizations *managing risks* can also create or maintain inequalities in opportunities and social primary goods. Of course, there is the issue of how best to organize social and health insurance schemes. But one important source of risk in our societies is also the risk of investments. Motivating people to invest their savings in the economy is important to stimulate growth and to make capital accessible and help firms to invest in research and development. But investments involve the risk of losing the capital invested.

The financial system manages this risk. Some authors propose that public institutions should promote egalitarian and democratic financial organizations. Today, financiers' power to provide or restrict credit or businesses' power to control investments decisions is undemocratic. It provides few people with more political and economic influence than others¹⁷. We should investigate the specific inequalities created by the structure of financial organizations and what to do about them. For instance, should we pool (at least partially) the risks of investments? Should we give more power to local communities on investment choices? What justice requires from organizations managing investment risks, especially concerning the creation of inequalities, has not been thoroughly investigated yet¹⁸.

Therefore, in order to realize a System of egalitarian organizations, public institutions need to target the source of each specific kind of inequalities¹⁹. Moreover, such a system needs to reduce inequalities *between* firms. Therefore, public institutions could need to regulate firms in order to foster the diversity of economic activities within each organization and limit the possibility of outsourcing or exclusion as the case of Mondragon suggests for instance.

I plan to pursue this research agenda in the following years in order to propose a unified framework to think about the promotion of egalitarian organizations in all economic sectors. The long-term goal is to gather in one book the chapters of my thesis arguing for the promotion of egalitarian organizations and various case studies, including (but not limited to) worker cooperatives, consumer cooperatives and collaborative consumption associations, cooperative banks, public and universal insurance schemes, and so on. This project is possible because of the coherence of the framework proposed in this thesis. This book would constitute a proposal for a set of coherent public policies aiming at promoting egalitarian organizations in various sectors of the economy. The added value of the book would also be to show how egalitarian organizations in various sectors mutually support one another. This would help to answer remaining normative issues about the desirability and feasibility of a System of egalitarian organizations, such as the access to capital of worker cooperatives.

¹⁶ Choi 2001; Waldman 2003

¹⁷ Malleson 2014: 137-138, 154-163

¹⁸ Meade 1964, 1989; Fleurbaey 1993; Dow 2003; Williamson & al. 2003; Birchall 2013; Malleson 2014

¹⁹ Malleson 2014 (worker cooperatives, community banks); Botsman & Rogers 2010 (collaborative consumption)

5 – Tomorrow

I opened this thesis with a very ancient thought: Rich is the one with few needs. Our lives would be much simpler if everyone was holding to this little idea. Wealth and power and fame are futile and worthless for those of us who are lucky enough to experience love, friendship, and compassion. The Earth is generous and beautiful enough to secure everyone's happiness. Isn't it marvelous that on such a tiny rock in the middle of an infinite universe, two aggregates of atoms can think, eat and become friends? Life should be as simple as this and fraternal benevolence towards one another should ultimately be sufficient to organize collective life.

Today instead, a fraction of the population has taken over our political institutions and has accumulated so much wealth and power that many people start to give up on democratic ideals. Envy, competition, and fear have led many to mistrust, anger, and exclusion. We have managed to transform the world into a fighting pit in which so many people struggle all their lives for the crumbs of a rigged global economy. Thousands of migrants fleeing poverty and war end up dying in the Rio Grande or the Mediterranean Sea. Many of those who stayed at home are starving, right now. As shootings and terrorist attacks become more frequent in many regions from North America to Europe and as revolt is growing in many developing countries, we need to target the root cause which turns innocent children into violent adults.

We know all too well where all this violence comes from. People are desperate. They die in silence from hunger we can relive and diseases we can cure. We have never built as many houses and never produced so much food and medicine, and yet millions are homeless and struggle every day for their lives. Inequalities are getting deeper and deeper. In many countries, half a generation is left without work and worse, without hope. And future generations will have to bear the costs of today's useless consumerism. We need to wake up and realize that this is a dangerous game. Deeply unjust societies are not stable over time: it is the perfect recipe for authoritarianism, extremism, and conflicts.

This is not the first time human beings face difficulties and injustices. So many struggles and sacrifices have been necessary during the last centuries simply to secure civil rights and basic social protections. Little by little, we defended women's right to vote, equal recognition for black people and equal economic opportunities for poor people. We established institutions and treaties to prevent violence and war. We all owe our freedom and our way of life to courageous people who fought for social change in a not so distant past. But today, the power of states and unions is declining and, despite unprecedented economic development and innovation, the progress made in the past is threatened. This needs to end. We need to stop listening to the cynical fools saying that there is no alternative. 500 years after Thomas More wrote *Utopia* we need to revive our disposition to dream of a better world.

Tomorrow, we need to bring people together and remember everyone that decisions are made by those who show up. We need to engage in politics to defend our democracies. We need to work and work again in order to organize a more peaceful, inclusive and stable cooperation. The only thing blocking us from realizing our ideals is the number of people we have yet to convince. Our most urgent task is to bring our fellow citizens with us in this long but necessary journey towards social justice.

This world is our only home and we are tearing it apart. It is up to us to change it.

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I argue in this thesis that liberal egalitarian principles of justice require public institutions to promote egalitarian organizations such as workers cooperatives.

In the first part, while adopting the general framework of liberal egalitarianism, I dissipate some ambiguities and solve some problems within the theory. In the second part, I use these modifications to the theory to propose new arguments demonstrating that any system tolerating inegalitarian organizations will necessarily fail to correct all the unjust inequalities they create and thus fail to realize a fully just society. I demonstrate more specifically that Welfare State Capitalism, even in its strongest version, is always insufficient to realize all the requirements of justice.

The first argument consists in demonstrating that a Strong Welfare State Capitalism may succeed in distributing income and capital fairly through redistributive taxation, but that it will fail to realize a just distribution of all other primary goods such as protection from domination, self-governing capacities, and self-respect. The second argument consists in saying that the redistributive policies supposed to correct unjust inequalities created by inegalitarian organizations are not stable over time. Therefore, it becomes necessary to promote egalitarian organizations in order to realize justice.

In the third part, I apply these general arguments to the case of production. I argue for the implementation of concrete public policies promoting specific types of worker cooperatives because they tend to create less inequality.

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