Rawlsian Justice and Labour Markets in Nonideal Circumstances

A thesis submitted to the University of Manchester for the degree of Doctor of Philosophy in the Faculty of Humanities

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Abstract

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Rawlsian Justice and Labour Markets in Nonideal Circumstances
Markets have come to form one of the most important of all social institutions. In attempting to evaluate the functioning of markets, a significant issue is of the extent to which their justification as an ideal is also capable of providing support for their actual ongoing functioning. In this way, the assessment of market interaction seems to face one of the prominent themes of contemporary political philosophy: what value can be derived from theoretical endeavours that function at a high level of generality and abstraction when it comes to providing guidance within the messy reality of social life? Or, more briefly, how useful is ideal theory within nonideal circumstances?

This thesis proceeds, via a specific focus upon labour markets informed by the Rawlsian ideal of justice as fairness, to give a response to the above question. It rejects strong critiques of ideal theory, arguing that theoretical ideals remain able to provide direction to social reform, as they help to define the goals that such reform ought to aim for. However, the thesis argues that additional work may be required to supplement an abstract ideal, if guidance is required about specific elements of social life in nonideal circumstances. Via a focus upon moral psychology, it argues that theorists must attempt to understand why people subscribe to particular practices and what may be of value within them that efforts at reform may want to preserve.

In specific relation to labour markets, the thesis develops an understanding of both the gains and threats that accompany their operation. It draws particular attention to recent developments within productive processes that have seen a move towards greater flexibility in working practices. The thesis argues that, from a Rawlsian perspective, there are good reasons to endorse some measure of market activity. However, as this endorsement remains conditional upon the fairness of background conditions, the thesis also demonstrates how efforts and reform may best proceed where these background requirements are absent. By demonstrating what is of value within labour market processes, it offers an outline of a range potential reforms – some of a more ideal nature, some of a more practical nature – that are consistent with the aims of justice as fairness.
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Introduction

The past thirty years have seen a significant expansion in the role played by markets in coordinating productive activity. This expansion has occurred in both geographical and functional terms. Geographically, the collapse of state-socialist regimes in Eastern Europe and the Soviet Union, along with market-oriented reforms in places like China and Vietnam, has broadened the global scope of market activity, leaving it all but unrivalled as a coordinating mechanism. Meanwhile, technological and institutional changes have allowed for an enormous intensification of market activity, allowing for the development of intricate and extensive chains of trade across the globe. And even within established market societies, many areas that had previously been shielded from markets have been reformed so as to introduce competitive market behaviour.

Moral commentary upon market exchange has proved to be a consistent accompaniment to the activity itself. Some have always sought to emphasise not simply the productive gains of markets but also the virtues that trade and productive exchange might promote: trustworthiness, punctuality, and cooperative interaction with strangers. Meanwhile, critics have drawn attention to the destructive power of markets and their reliance upon ignoble self-interested motivations.¹

Within contemporary analytic political philosophy, many positions offer an endorsement of market arrangements. Yet, in each case, this endorsement appears somewhat conditional, with further scrutiny of background conditions or relevant institutions being required before markets can be judged to be wholly justified. Rawls uses the difference principle to advocate the permissibility of inequalities when they are beneficial to the least well off and, in so doing, allows for the permissibility of market exchange, where this will prove to be the most efficient means of creating social product for redistribution. For Dworkin, market arrangements are an essential

component in ensuring the responsibility sensitivity of justice, providing that market prices give an accurate reflection of the opportunity costs of particular actions and activities. Even for libertarians, whose emphasis upon the level of control afforded by rights to external property seems to mandate free market exchange as a matter of justice, a market system will only justified if the historical circumstances through which current property holdings came about are such that their holder’s entitlement can be demonstrated.²

It can become hard, then, when attention turns to real markets, where such background conditions may be absent, to assess how principled evaluation of activity should proceed. Does market activity continue to be justified in less than ideal conditions and, if not, what sort of restrictions or regulations may be required? In recent years, questions of this type have garnered increasing attention from political philosophers. That is to say, questions not simply about the ideal form that social institutions should take, but rather about the sorts of practical policy we ought to be seeking to implement in nonideal circumstances. For some, the difficulties in deriving specific practical guidance under nonideal conditions suggest a decisive reason to reject the form of ideal theorising that has been dominant in recent analytic political philosophy. Such arguments have led to a significant contemporary examination of the merits of ideal theory as a means to guide social reform.

Questions about the merits of ideal theory as a methodology – and of the relationship between ideal theory and practical efforts to reform social institutions – will comprise one significant strand of this thesis. I will reject the argument that the abstractions of ideal theory render it unable to perform the task of guiding social reform, but will acknowledge that the relationship between ideals and political action is not a straightforward one. Thus, much of the thesis will be an attempt to demonstrate how a principled evaluation of an area of social life, with the aim of guiding reform, might proceed within nonideal circumstances.

In the above discussion, I have referred to both market arrangements and ideal theory in general terms. Yet, within what follows, I do not aim to provide a general assessment of the entire scope of markets, nor a broad appraisal of the place of markets within ideal theories of justice. Instead, the scope of this thesis is limited in two ways: my attention is focussed specifically upon labour markets, and my approach seeks to discuss them from the perspective of the Rawlsian scheme of justice as fairness.

I choose to work from the perspective of Rawls’ ideas for two principal reasons. The first is the overall significance of his work within contemporary political philosophy. The publication of *A Theory Of Justice* in 1971 is widely credited with sparking a revival of political philosophy generally, and can certainly be regarded as providing the template through which the evaluation of social arrangements is conducted via the derivation of principles in the abstract. As a result, Rawls’ work is often the prime target for those wishing to critique the methodology of ideal theory. But, further to this, my second reason for choosing Rawls’ ideas as the basis for this thesis is that I personally find them to provide the most sophisticated and attractive scheme for ordering of social institutions. It should be noted, however, that in what follows I will offer no independent arguments on behalf of Rawls’ ideas as a whole. In places, I will seek to defend elements of Rawls’ theory from criticism – notably in my arguments against the wholesale rejection of ideal theory and in my defence of the difference principle against the criticisms of G.A. Cohen. Yet, despite this, my interest is not primarily in providing a defence for justice as fairness.

My choice to limit the scope of enquiry from markets more generally to specifically focus upon labour markets is motivated by a number of concerns. One is that I wish to react against the tendency, present within both neoclassical economics and mainstream political discourse, to treat market exchange as a singular, homogenous form of activity. Attempts to model market activity often assume settled patterns of behaviour irrespective of the particular good being traded. This is an assumption I reject, instead suggesting that particular markets may have inescapably political dimensions, such that they may produce worrying power dynamics, or shape
their participants in undesirable ways. Thus analysis of economic activity should show an awareness of the specific features of the particular market in question.

This sort of approach has far more in common with the perspective on markets of earlier economic thinkers, such as Adam Smith and David Riccardo. This earlier tradition of political economy recognised that trade in certain products may carry with it unwelcome characteristics. Among the markets that most concerned classical political economists were markets in human labour. This is, as I shall discuss in more detail within this thesis, largely due to the effects that their operation exerts upon the thoughts, attitudes, values and expectations of parties within them. When the product for sale is so intimately bound up with the vendor as in the sale of labour, then the vendor is likely to take much about the world and their place within it from the precise level and nature of activity that must be made available and the price it can command. This makes labour markets particularly pertinent for those interested in the moral dimensions of social institutions, as they will have a profound effect upon the psychological attitudes upon which such institutions must rest.

One final reason for focussing on labour markets comes at their intersection with Rawlsian ideas. As I shall make clear in Chapter 1, Rawls says very little about productive relationships, and what he does say is rather speculative in nature. While there is certainly an argument that, within the overall ideal scheme of his theory, labour markets would be much less likely to exhibit worrying characteristics, I will argue that this perspective cannot simply be extended to nonideal circumstances. Thus I will contend that there is good reason, from a Rawlsian perspective, to pay close attention to labour markets and productive relationships, and that this concern is exacerbated when we seek to evaluate circumstances characterised by distributive injustice. The precise details of when, how and why we judge productive relationships – and the labour markets that give rise to them – to be unacceptable, and how we might seek to respond to such problems, form the overall theme of this thesis.

For a recent work of a similar nature, see Debra Satz. *Why Some Things Should Not Be For Sale: The moral limits of markets*. (Oxford: OUP: 2010). In particular, see Ch. 2 for a discussion of the broader perspective on markets provided by classical political economists.
I will begin in Chapter 1 with a brief outline of the place of labour markets within the overall Rawlsian scheme for a well-ordered society. On this account, we may have little cause for concern about the specific functioning of labour markets, provided they are set against a fair distributive background, as no worker would be in a position where they had to take undesirable work or unfavourable terms. I argue that such an account, while wholly consistent with the overall social ideal provided by Rawls, is unable to provide adequate guidance for us as to how we should respond to labour markets where fair background conditions are absent. As this line of critique is about the ability of theoretical ideals to provide informed guidance to practical actions of social reform, I proceed in Chapter 2 to consider recent critiques of the very method of ideal theory. I consider two of the most strident of these critiques, from Colin Farrelly and Charles Mills, but I argue that their outright rejection of ideal theory cannot be sustained.

While I maintain that we need not accept Farrelly and Mills’ wholesale rejection of ideal theory, we do need to give careful consideration to the relationship between ideal principles and attempts at social reform. I reflect upon this relationship in greater detail in Chapter 3, paying particular attention to Rawls’ account of moral psychology and the transition to a well-ordered society. While I argue that this account does offer a plausible explanation of how a stable well-ordered society may come into existence, it is by no means inevitable. As a result, aims at reform of institutions in nonideal conditions need to pay particular attention to the manner in which institutions may nurture, sustain or erode particular values, attitudes and patterns of behaviour. I also suggest that the formative character of working relationships gives us particular reason to consider the labour markets that shape them as one of the most important potential targets for reform.

Thus, the remainder of the thesis will be focussed upon specific detail about the character of labour markets. In Chapter 4, I examine the practical basis for a market-based organisation of systems of production. In so doing, I demonstrate the logic behind particular aspects of productive labour. I will suggest that practical concerns relating to efficiency carry with them a certain dynamic that leads to the observable mix of command and market structures. Yet, these dynamics also carry with them threats to the interests and status of their participants. Thus, there is good reason not to
simply think that such decisions concern only practical effectiveness. This will lead me, in Chapter 5, to assess a range of arguments inspired by Rawls’ work that argue for production to be considered a component feature of a just social order, hence requiring that the practical gains of labour markets be tempered by normative constraints. Yet, I will argue that many of the specific demands made within these theories are hard to justify without appeal to overly determinate ideas of human flourishing. Without these particular requirements, what remains is little different from the simple distributive view outlined in Chapter 1.

This will lead me, in Chapters 6 and 7, to develop my own account of the appropriate place and limits of market activity in respect to productive employment. In Chapter 6, I argue that the most worrying feature of market activity is the manner in which it can embed attitudes and expectations that are contrary to those needed for a just social order. However, as I argue in Chapter 7, this does not require the wholesale rejection of market coordination. This is because, as well as enabling significant productive gains, there are also normative gains to be had from the use of markets as a coordinating mechanism: markets provide a highly effective means of delivering social coordination while respecting individual agency.

Having clarified the key gains and threats inherent within market activity, in Chapter 8 I will finally turn my attention back to the operation of markets within employment and to the question of where and how we might target efforts at reform. But, given the concerns I have raised about the extent to which ideal judgements can provide complete guidance for reform, I instead outline a range of potential reforms, some of which are more ideal and long-term in their aims while others are more immediately focussed upon specific aspects of current, nonideal circumstances. I suggest that all of these options are congruent, both with each other and with the overall aim of realising the ideal of a Rawlsian well-ordered society.
Chapter 1: Distributive Fairness and Productive Relations

The publication of *A Theory of Justice* in 1971 is often credited with a revival in the discipline of political philosophy. In the years since it was first published, many aspects of Rawls’ account of justice as fairness have been given sustained consideration.¹ Even in regard to the socio-economic institutions that would be necessary to maintain a Rawlsian well-ordered society, many areas of focus have been the subject of significant scrutiny. Yet, until recently, for Rawls himself and many Rawlsians, relatively little attention had been paid to the relations of production that it presupposed.² Why might this be the case?

In this chapter, I wish to set out one possible explanation for this lack of focus upon the organisation of work, which is the suggestion that questions of distribution should be considered as being prior to questions of production. On this account, the considerations covered by Rawls’ principles of justice will be sufficient to shape background conditions in a manner that would prevent the development of troubling characteristics within the productive sphere. I will refer to this as the distributive account of social relations (§1.1). Yet, I will argue (§1.2) that one significant problem with the distributive account is that its reliance upon ideal markets under fair background conditions means it can tell us very little about how we should respond to actually existing labour markets, or to current practices of production. This therefore raises concerns about the relationship between ideal theories of justice and practical efforts at

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reform. Addressing this relationship in regard to questions of productive organisation will be the major theme of this thesis.

1.1 Justice as fairness and the priority of distribution

The basis of Rawls’ account of justice is fairness are the two principles of justice, which are: 1) “each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others”\(^3\), and 2) “social and economic liberties 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.”\(^4\) These principles give expression to the respect that liberalism affords each individual, while they also provide a basis for the assessment of societal institutions. Theories of justice, on Rawls account, should be addressed at the social and political institutions that fundamentally shape people’s lives and attitudes – what he terms the basic structure of society. As a result, it is the form taken by such institutions that will determine how just a society may be judged.

Despite this focus upon the institutional background of society, for the most part Rawls’ account avoids being overly prescriptive in outlining the exact shape that economic and social institutions should take, instead focussing on the framework of rights and opportunities that a just society ought to provide to its citizens. One consequence of this is that very little direct attention is provided within Rawls’ work to issues of employment and production. Under closer scrutiny, a number of features of the theoretical scheme of justice as fairness might be thought to explain this neglect.

Firstly, Rawls is explicit in his rejection of the suggestion that the basic liberties should be understood as guaranteeing some form of ownership or control over the means of production,\(^5\) which means that many of the firms and associations that people work within would be judged to not be part of the basic structure. As a result, direct control over their actions is beyond the scope of what a government may

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\(^4\) Ibid. p.83

legitimately do. Why might Rawls be so keen to deny the possibility of rights of productive ownership within the set of basic liberties? One explanation is that inclusion of such requirements would mean that a just social settlement could only be realised through a specific economic regime – namely, some form of socialism. It may be argued that, if what we seek from a theory of justice is a means to evaluate the appropriateness of institutional forms, then there would seem to be some merit in preventing the outline of the theory becoming overly determinate about its precise requirements. As a result, Rawls’ desire to avoid the inclusion of too much specific detail within his principles seems well-founded.

Beyond this, a further argument against an explicit consideration of productive relations within a liberal scheme of justice would be that there is nothing particularly special to the employment relationship that would necessitate such attention. Given the contractual nature of employment relationships, it may be surmised that any voluntary agreements will – at least to some extent – be beneficial to all parties. If an individual were not to at least perceive some benefit from a contract of employment, then she would have no reason to agree to it. If this is the case, then the cause, or at least the primary cause, of objectionable practices within employment – of relationships of servility and domination, or of tasks that amount to little more than repetitive drudgery for inadequate reward – will be ascribable to a lack of voluntariness in agreements, possibly caused by inequalities in the respective bargaining positions of parties. An individual would not take a job she found to be unrewarding toil, or to submit to a workplace of harsh discipline unless she was unable to find or negotiate a more attractive alternative for herself.

On this account, problems of injustice or unfairness within work would not be a concern under conditions of relative equality. Work, in and of itself, is not of central concern for a theory of justice, which should instead be aimed at providing each individual with a fair bargaining position. One of the best ways that this could be secured would be to ensure that no individual would find themselves in such a deprived position as to be so desperate for work that they were willing to accept terms and conditions that they would otherwise find unacceptable. As a result, a supporter of this position would conclude that achieving a fair distribution of resources within
society would discourage employers from offering roles involving unjust or unacceptable working practices, as they would be unlikely to find willing workers. Therefore, the appropriate focus for a theory of justice ought to be the distribution of resources within society, which should be seen as prior to productive concerns. Problems within the sphere of employment are simply a symptom of wider distributional injustice. This is the main claim of what I have termed the distributive account. So, given Rawls’ explicit focus upon the distribution of resources throughout society, there is no need for him to consider productive relations in greater detail. 6

Indeed, this reading may be seen to gain some support in some of Rawls’ discussions of the productive sphere. For instance, in his reply to Marx’s critique of liberalism in *Justice as Fairness*, he responds to a critique of the division of labour under capitalism by suggesting, “that the narrowing and demeaning features of the division should be largely overcome once the institutions of a property-owning democracy are realized.” 7 In other words, it is not attention to employment itself, or any specific features of the division of labour that attention should be focussed, but rather to achieving the appropriate background conditions. Rawls’ advocacy of the idea of pure procedural justice also seems in keeping with the distributive account – ensuring an appropriate institutional background ensures there is little need for intrusive regulation of productive activity. This would mean that the lack of specific attention productive processes have received within justice as fairness should not be considered a significant problem.

1.2 Problems with the distributive account

One of the concerns of this study is to explore the relation between ideal theories of justice and the ability to suggest practical reforms to existing social institutions. It is in regard to this issue that the distributive account begins to appear lacking. For, what it provides is an account of an ideal situation in which productive relations would not be

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problematic. Yet, what we expect from an account of justice is not simply an account of a utopia (even a realistic one) where social problems have been surmounted, but also that it help to inform our sense of moral urgency, to identify the most salient injustices that are currently faced. As Rawls notes in his defence of the notion of pure procedural justice:

the conception of a suitably regulated competitive economy with the appropriate background conditions is an ideal scheme which shows how the two principles of justice might be realized. It serves to illustrate the content of these principles, and brings out one way in which either a private-property economy or socialist regime can satisfy this conception of justice. Granting that existing conditions always fall short of the ideal assumptions, we have some notion of what is just. Moreover we are in a better position to assess how serious the existing imperfections are and to decide upon the best way to approximate the ideal.\(^8\)

So, the purpose of the ideal is to help inform our understanding of the content of a just scheme of social cooperation. But if the manner in which the content of justice within one particular sphere (such as productive endeavour) is shaped by ideal presuppositions (such as the assumption of a fair background distribution of resources), then it seems likely that the ideal will face difficulty in supplying determinate content regarding circumstances where those presuppositions do not hold.

For, the distributive account maintains that, when fair distributive background conditions exist, there would be no need for anyone to submit to unacceptable working conditions. Yet this does not imply that any set of terms and conditions that would not be accepted under such a scenario must immediately be considered unjust. If this were the case, a huge proportion of the productive sphere would surely stand condemned.\(^9\)

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\(^8\) Rawls. *Theory*. p.309.

\(^9\) To illustrate, it has been calculated that a wage that would allow its worker to meet a basic standard of living in the UK would be £7.45 p/h (correct as of June 2013) – £8.55 p/h for those living in London. Yet, the UK minimum wage stands at £6.19 p/h. Work that would not even meet the basic costs of living would certainly be deemed unacceptable if fair bargaining conditions obtained. See http://www.livingwage.org.uk for further details of how the living wage calculation is made.
Equally, we may struggle to assess whether the problems with current working practices are most closely related to the content of work, its structure, the contractual terms or lack of reward. Pointing to the respective bargaining positions of parties as the overall cause of injustice within the employment sector does little to guide us in assessing how these are manifested and how they ought to be addressed.

As an illustrative example, consider the case of an alcoholic who has, while drunk, fallen over and broken her leg. The overall cause of this accident may have been the excessive intake of alcohol that undermined the drunk’s equilibrium, however if a doctor were to simply suggest that she sober up and such accidents would not occur, we would feel that the doctor was not fulfilling their medical obligations. We would instead expect that the doctor should be able to examine the leg and, mindful of its proper form and function, be able to diagnose and treat the specific problems that were faced. We may also think that the doctor also had a duty to point out to the drunk that she could reduce her chances of future injury by getting sober – and to provide relevant medical assistance to aid recovery from the addiction as well – but this does not simply supersede the immediate issue of the broken leg.

A retort to this example might be to suggest that political philosophers should not be considered analogous to doctors. Their job is not to be concerned simply with the health of the body politic, but rather its proper form and function. This latter role would, then, necessitate abstraction rather than direct consideration of specific features of social life. So, prior to the doctor’s attempts at treatment of the drunk’s broken leg must come an awareness of the role of leg bones in providing a body with structural support. But, questions of function and purpose of a human body are far less controversial than such questions in relation to human societies. For much of the past forty years, political philosophy has tended to focus upon these larger questions, considered in the abstract. But, given the sort of critique advanced above, can political philosophy – and political philosophers – be judged to be failing for maintaining this particular focus? In recent years, this line of critique has been increasingly prominent and in the following chapter, I shall consider it in greater detail.
Chapter 2: Ideal and Nonideal Theory

From Rawls onwards, much of the output of political philosophers has taken a strongly egalitarian distributional character. Yet, an often noted observation is that the period since the publication of *A Theory of Justice* has been marked by a divergence in incomes between the wealthiest and the poorest in many Western societies. So, although a commitment to egalitarian justice has become common currency within academic political philosophy, egalitarian values have had less of an impact upon the actual practice of enacted policies in liberal democratic states in the corresponding period.

Perhaps stung by the contrast between their settled convictions and the everyday empirical politics of the world around them, some within political philosophy have begun to call attention to the lack of wider influence that debates about justice have had regarding questions of institutional design or public policy. In doing so, attention has become focussed upon the distinction – itself initially defined within *A Theory of Justice* – between ideal and nonideal theory and upon the predominant strategy of obtaining principles of justice through the abstractions of ideal theory. The abstractions made in order to derive theories of justice at the ideal level, it is argued, have undermined the ability of political philosophers to provide practical recommendations within circumstances that are less than ideal. As a result, debates within political philosophy have become an irrelevance to general political debate.

In this chapter, I examine this claim to assess, with particular attention to the Rawlsian account of justice as fairness, whether such ideal assumptions have indeed compromised the applicability and relevance of the resulting principles towards political life as a whole. Firstly (§2.1), I make some initial comments about the general issue of fact sensitivity within debates on social justice. I then proceed (§2.2) to reconstruct the initial basic steps Rawls takes in outlining his theory, noting the various ideal assumptions that are present. I go on (§2.3) to examine two of the most strident versions of the strong nonideal critique of ideal theory, as advanced by Colin Farrelly
and Charles Mills, which suggest that such assumptions inherently compromise the prescriptions of ideal theory to the extent that it becomes inapplicable to real-world situations. In response (§2.4), I will argue that these critiques are misplaced as they make demands upon ideal theory that go beyond what ideal theorists could reasonably aspire to provide. Rather than directly addressing and completely solving problems of institutional design or fully resolving historical injustices, the ideal principles Rawls outlines are designed to assist in judging current institutions and to provide guidance to future action for their reform and reshaping.

But I do not completely dismiss the concerns raised by the critique of ideal theory. So, I clarify (§2.5) what remains of value within this critique. I further argue there are two ways in which the nonideal critique may provide a useful corrective for political theorists. Firstly, when employing simplifying ideal assumptions, it is necessary to ensure that they are attuned to relevant facts of the practices they aim to regulate, so as to avoid producing a distorted account of their working. Secondly, there is an important role – and one that political theorists have sometimes been reluctant to fulfil – in examining how ideal principles might most appropriately be applied when ideal precepts are not met. But, in this, I will stress that nonideal theory must also play a transitional role, in that its specification of appropriate actions should, to a large extent, be guided by the aim of creating the conditions in which ideal principles may eventually be realised in full. This role, therefore, suggests that ideal and nonideal theory are not opposed, but interrelated and dependent upon each other for the successful realisation of just schemes of social life.

2.1 Fact-sensitivity and justice

Liberal egalitarian theories have typically functioned at the level of the ideal. They take a general stance that abstracts from many facts of social and political life. However, within debates about the nature of justice there is no settled account of the appropriate level of factual input that should be considered. Some theorists, notably G.A. Cohen, Colin Farrelly. ‘Justice in Ideal Theory: A refutation.’ *Political Studies.* Vol. 55 (2007), pp. 844-864; Charles W. Mills. ‘“Ideal Theory” as Ideology.’ *Hypatia.* Vol. 20, no. 3 (2005), pp. 165-183. For an overview of the entire range of nonideal concerns see Laura Valentini. ‘Ideal vs. Non-ideal Theory: A Conceptual Map’. *Philosophy Compass.* Vol. 7, no. 9 (2012), pp. 654–664.
have maintained the ultimate independence of principles from factual considerations.\(^2\) This view suggests that debates about justice should not be restrained by current circumstances, institutional practices or our own opinions about what may be achievable or deliverable. We need not, Cohen suggests, concern ourselves with the practical consequences of our debates, as we are investigating the nature of justice, not its applicability or suitability for our current social arrangements or conditioned attitudes.

In the light of such attitudes, one way of characterising debates within liberal egalitarian theory has been to depict them as falling along a spectrum of fact-sensitivity, ranging from the extremely ideal, through to the non-ideal.\(^3\) Under such a categorisation, the type of approach typified by Cohen would fall at the ideal end of the spectrum, a position where the degree of direct practical applicability is not a principle concern. As Cohen states, “the question for political philosophy is not what we should do but what we should think, even when what we should think makes no practical difference.”\(^4\)

Approaches that employ some moderate degree of feasibility constraint – with Rawls and Dworkin considered principle exponents – would be placed further along the fact-sensitivity scale, in a position that could be described as “moderately ideal”\(^5\). Within critiques of ideal theory, it is typically such “moderately ideal” positions, which do aim to provide recommendations with some degree of practical applicability, that have been scrutinised. In other words, the line of critique is that even positions that aspire to provide a “realistically utopian”\(^6\) scheme of justice should be considered as being too insensitive to factual considerations, resulting in pronouncements that are unable to provide practical guidance in real-world circumstances. Therefore, if political theory is to be of assistance in real-world debates, the critique of ideal theory maintains


\(^3\) This approach is taken by Farrelly ‘Justice’.


that it must eschew a tendency towards abstraction and take more seriously additional facts about the nonideal world.⁷

Although it may be tempting to regard the scope of the debate in these terms, as a simple spectrum of approaches ranging from the highly ideal fact-insensitive approaches through to nonideal fact-sensitive views, this does not seem to fully account for the different positions taken. As Laura Valentini notes, the difference between fact-sensitive and fact-insensitive theories is not simply a matter of degree. Rather:

- they conceive of the question ‘What is justice?’ in completely different terms:
  1. Fact-insensitive theories ask: ‘What is justice as such, in its pure, fact-free form?’
  2. Fact-sensitive theories ask: ‘What principles should govern the exercise of political power for it to be justified?’⁸

That is to say, for fact-sensitive approaches, questions of justice only arise in certain circumstances, where particular institutional forms, practices or relationships obtain. The fact that individuals face a situation in which their interests will bring them into competition with others for necessary resources provides the basis for the search for a truly legitimate institutional solution. Questions of justice are, therefore, inherently rooted in practical concerns. But, despite their practical orientation, fact-sensitive theories remain ideal to the extent that they seek to specify a preferred institutional form that would be wholly justified.

Given the fact that fact-sensitive theories do aim to provide an achievable and realistic practical solution to questions of justice, they are likely to be more troubled by the nonideal critique. If, despite attempting to take relevant facts into consideration, such theories are unable to provide adequate guidance for practical questions about the most appropriate form of social organisation, then the overall validity of the

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⁷ I will return to consider the main points of this critique in greater detail in Sections 2.3 and 2.4.

methodology of ideal theory would undoubtedly come into question. In order to assess this concern, I will begin with an exploration of the distinction between ideal and nonideal theory within Rawls’ work. In particular, I will draw attention to two features of Rawls’ account: (i) the idealising inputs Rawls applies in the construction of his ideal decision procedure; and (ii) the normative outputs that result from this procedure – the principles of justice – and their ability to provide guidance in nonideal conditions.9

2.2 The Rawlsian distinction between ideal and nonideal theory

In distinguishing between ideal and nonideal theory, Rawls was always clear that it was the former that was of primary concern to him. This focus allows Rawls to address himself initially to the problem of working out “the principles that characterize a well-ordered society under favourable circumstances.”10 These circumstances are comprised by a situation in which many individuals “roughly similar in physical and mental powers”11 must coexist together within a specified geographical space characterised by a degree of scarcity:

Natural and other resources are not so abundant that schemes of cooperation become superfluous, nor are conditions so harsh that fruitful ventures must inevitably break down. While mutually advantageous arrangements are feasible, the benefits they yield fall short of the demands men put forward.12

The situation is, thus, one in which sufficient benefits of cooperation are available such that no one need go short, but still there is a requirement for a principled scheme of cooperation to allocate benefits and burdens in an appropriate manner.

Further to these initial specifications of the circumstances of justice, the choosing of principles is made in the light of conditions that are somewhat controlled and simplified in order to abstract from the complexity of everyday social

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10 Rawls. Theory. p.245.

11 Ibid. p.127.

12 Ibid. p.127.
circumstances and to sharpen focus upon the salient points for consideration. Rawls makes the claim that it is “natural to conjecture that once we have a sound theory for this [ideal] case, the remaining problems of justice will prove more tractable in the light of it. With suitable modifications such a theory should provide the key for some of these other [nonideal] questions.”

This promotes the idea of a clear separation between ideal and nonideal theory, with the former being the primary task of the political philosopher and the latter taking a subsidiary role. Ideal theory has the task of selecting and justifying appropriate principles while nonideal theory involves an assessment of how to deal with complex issues that go beyond the preconditions of ideal theory.

What, then, are the ideal assumptions that Rawls makes in order to derive the principles of justice? Firstly, he suggests that society should be conceived of as “a closed system isolated from other societies.”

Given that Rawls specifies a primary interest in the shaping effects of the major political, economic and social institutions – the “basic structure” of the society – it therefore is of assistance in formulating principles to assume that all of the major influences of this type are internal to the society, and hence would be subject to amendment in line with any principles that are agreed upon. Further to this, the assumption of isolation from competing societies or outside pressures enables a more effective assessment of likely consequences, in terms of the stability of the society. Imagining a society whose social dynamics are shaped by institutions designed in sole accord with a particular set of principles allows for the most complete assessment of the validity of those principles, as extraneous factors will have no influence.

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13 Ibid. p.8.

14 Ibid. p.8.

15 In considering the relations between societies, in The Law of Peoples, Rawls seems to regard this as a secondary question to concerns of justice within each society. His international theory seeks to define how well-ordered liberal societies should act in their interactions with other societies, thus assuming that internal distributive dilemmas have already been resolved. I shall return to consider the implications of this approach in section 2.5.1.
This would also seem to contribute to the motivation behind a second, obviously counterfactual, assumption – that of strict compliance with the principles of justice: “Everyone is presumed to act justly and to do his part in upholding just institutions.”\textsuperscript{16} Although it is quite clear that such an assumption is strongly at odds with our experiences of the way actual societies work – wherein self-serving, unjust and immoral behaviours are commonplace – in terms of our ability to comparatively judge the overall impact of particular principles of justice, it would appear beneficial to imagine how a society would function if said principles were fully enacted and complied with. Equally, the stability of societal forms may be more effectively calculated if a baseline of full compliance is assumed.

These two assumptions may, therefore be seen to be, in part a consequence of the decision procedure that Rawls includes at the heart of his theory. The judgement that parties to Rawls’ hypothetical contract have to make between competing conceptions of social organisation can be most easily facilitated by considering their impact in abstract, ideal terms. In part, Rawls achieves this through the use of the veil of ignorance, which screens parties to the decision from information that would allow them to introduce partial concerns into the decision. Yet, for these mutually disinterested, rational parties to be able to assess which of the competing conceptions is most acceptable, or to judge whether there might be long-term “strains of commitment”\textsuperscript{17} that may make a conception impossible to adhere to over time, parties must have a secure understanding of what the consequences of each alternative would be, clear of the worry that other factors may be involved. Hence, abstracting from the everyday complexities of the status quo is absolutely essential if Rawls is to maintain this decision procedure as a meaningful element within his approach.

The stronger version of the nonideal critique suggests that such a decision procedure cannot specify workable principles of justice, as its assumptions abstract too far from the everyday context of political debates and so create an unbridgeable distance between the principles and the circumstances they are supposed to regulate.


\textsuperscript{17} Ibid. p.176.
In order to assess this opinion in detail, I shall now outline two versions of such a critique.

### 2.3 The strong nonideal critique

Two of the strongest recent critiques of ideal theory have been advanced by Colin Farrelly\(^{18}\) and Charles Mills\(^{19}\). Although both highly critical of theoretical attempts to transcend real world considerations, I believe that they are to a degree pursuing different points. For Farrelly the problem is that ideal theory is too far removed from empirical realities, whereas Mills’ critique seems to suggest that ideal theory is unable to successfully transcend the circumstances of its creation and so is unable to address the effects of historical oppression. I will now outline each of these critiques in turn.

#### 2.3.1 Farrelly’s refutation of ideal theory

Farrelly’s critique of ideal theory tries to suggest that the very form of ideal theorising will lead to conclusions that are wholly inadequate to the task of providing guidance to policy or political action. In invoking ideals in the manner outlined above, political theorists are ignoring the practical necessity of trade-offs and undermining the importance of democratic politics, indulging instead in what Jeremy Waldron refers to as an “I-expect-you’d-all-like-to-know-what-I’d-do-if-I-ruled-the-world”\(^{20}\) type of theorising. This is in part due to them pursuing what Farrelly describes as a “cost-blind approach to rights”\(^{21}\) and partly due to distortions introduced by the idealising simplifications utilised at the outset of their theoretical constructions.

For instance, Farrelly suggests that the very circumstances of justice suggested by Rawls are likely to lead to distorted thinking and unworkable principles. The “reasonably favourable conditions”\(^{22}\) that Rawls’ well-ordered society requires assume

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\(^{18}\) Farrelly. ‘Justice’.

\(^{19}\) Mills. ‘Ideal’.


that there will be sufficient resources available to secure the requirements of the principles of justice. But this view, according to Farrelly, ignores the heavy costs that may be involved in protecting or providing rights for individual citizens:

This is a common (but mistaken) assumption among both liberals and libertarians who believe that these ‘negative’ rights only require the state to refrain from interference. Constrained in this manner, the equal basic liberties principle does not seem to impose any significant financial burden on public funds. And if the first principle of justice is costless, it seems that Rawlsian justice permits us to invest the majority of available public funds into the second principle of justice to address positive state action, like providing adequate education.23

However, given the huge budgets currently provided to government departments involved in, for example, the administration of defence, policing, justice or environmental protection,24 it seems unlikely that any society would be able to address the second principle, as so many resources would be required in order to fulfil the requirements of the prioritised first principle. If the provision of rights is not costless, then there may be a need to consider trade-offs or alternative schemes of rights provision, unless a virtually unlimited abundance of resources were available – a situation that would obviate the need for principles of justice at all. This leads Farrelly to suggest that Rawls’ serial ordering of principles renders the first principle


24 Farrelly quotes the following state spending figures for the year 2002, taken from the Budget of the United States: Fiscal Year 2006:

• Defence: 410.8 billion dollars
• Homeland Security: 30.5 billion dollars
• Health and Human Services: 69.2 billion dollars
• Justice: 21 billion dollars
• Environmental Protection Agency: 7.9 billion dollars
• Judicial Branch: 5.3 billion dollars

Ibid. p.851.
“impotent”\textsuperscript{25} in all but the most favourable of conditions, advocating instead the principle of utility as superior.

A similar situation, in which Farrelly detects a discrepancy between the preconditions of Rawls’ principles and the circumstances they are supposed to regulate, is in the removal of questions of health care and mental capacity from consideration in the choice of principles.\textsuperscript{26} Such issues are, Rawls indicates, to be dealt with at the legislative stage instead. But, for Farrelly, this is again a case of Rawlsian principles being incapable of providing the effective guidance that may be required of them, as a direct consequence of the ideal method by which they are derived. If legislators are seeking principled input as to the amount of resources they should be committing to healthcare, or the extent that they should be aiding those of lesser mental or physical capacity, this is not provided by the Rawlsian principles.

A further example cited of the problems caused by the simplifications in Rawls’ argument relates to his depiction of society as a closed, isolated system. Farrelly draws attention to some of the ways in which the policy options available within a real society might be influenced by factors from outside, such as capital markets, global trade or migration. In the light of these factors, the feasibility of particular institutional goals may come into question. Although the recommendation that a government should take up the role of employer of last resort\textsuperscript{27} may be entirely consistent with the overall aims of Rawls’ theory and may be workable within a closed society, it is likely to be unsustainable in the kind of fluid, dynamic situation engendered by global markets.

Such issues are taken by Farrelly as an indication that ideal theorising is just too far removed from the real dilemmas of democratic politics or institutional design to provide adequate action-guiding recommendations. In focussing predominantly upon

\textsuperscript{25} Ibid. p.852.

\textsuperscript{26} In discussing who to consider as the least advantaged representative members of society Rawls makes the assumption “that everyone has physical needs and psychological capacities within the normal range, so that the questions of health care and mental capacity do not arise.” Rawls. \textit{A Theory of Justice: Revised Edition}. (Cambridge, Mass: Belknapp Press: 1999). pp.83-4.

\textsuperscript{27} Rawls. \textit{Political}. p.lvii.
shaping principles against ideal backgrounds, he believes that the discipline of political
type undermines its ability to play a relevant role in shaping actual political debates:

Rather than striving to win a philosophical argument among rival first-order
theories, contemporary justice theorists who take non-ideal theory seriously
will seek to enhance public deliberation about legitimate public policy in a
morally pluralistic liberal democracy... In order to function as a guide for our
collective action, an account of justice must give due consideration to the
diverse complexities that arise in the real world. This will better prepare us for
taking seriously the distinct demands of social justice.28

For Farrelly, such an aim would require that the simplifying premises of ideal theory
be relinquished, in order to more closely engage with real world politics.

2.3.2 Mills: ideal theory as ideology

Although similar to Farrelly in the particular focus of critique, the problems Charles
Mills identifies with the methodology of mainstream political philosophy are
motivated by a contrasting purpose and perspective. Where Farrelly wishes to advance
a more pragmatic, utilitarian approach within political philosophy, Mills’ outlook takes
an approach based upon ideology critique, drawing upon Marxist and feminist
perspectives, highlighting the manner in which ideational concerns may be linked to
the continuation of structures of oppression and domination. Mills accuses liberal
thinking of being blind to the sources of such oppression, and lays much of the blame
upon the tendency towards idealisation and abstraction within liberal thought,
suggesting that a nonideal approach may be a better method for advancing or realising
ideal causes.

In particular, Mills suggests there are six assumptions that typify the issues
ideal theory has in presenting an accurate or usefully intelligible picture of social life:

• Such approaches will be based upon an idealised social ontology that assumes “the abstract and undifferentiated equal atomic individuals of classical liberalism”\textsuperscript{29} and therefore will be blind to the shaping effects of social hierarchies;
• They will make unrealistic assumptions about the capacities of human agents, overstating the amount agents will be capable of transcending their social circumstances;
• “[L]ittle or nothing will be said on actual historic oppression and its legacy in the present, or current ongoing oppression”.\textsuperscript{30} This will prevent the development of any systematic understanding of the dynamics by which oppression may be sustained or reproduced;
• Social institutions such as the family, economic structure and legal system will be integrated into theoretical models in their ideal form, ignoring the fact that their functioning may be far from ideal and may systematically work against some groups;
• Related to the assumptions about capacities, ideal cognitive functioning will also be presumed, downplaying the effects of ideology or group-specific experience in shaping perceptions of the social order;
• Finally, Mills takes issue with the presumption of strict compliance in the theories of Rawls and many subsequent liberal thinkers.

The problem with such idealisations, according to Mills, is that their use in creating an exemplary model of how a system should work is not sufficiently distinct from a descriptive account of how a system is actually thought to work. Thus, on the one hand, real world aspects of privilege and oppression may infect the ideal that is being advocated, on the other hand, the outcomes of ideal theory will be taken to be unproblematic reflections of the world as it is.\textsuperscript{31}

\textsuperscript{29} Mills. ‘Ideal’. p.168.

\textsuperscript{30} Ibid.

Yet, Mills asserts that such problems are not merely innocent confusions, but are rather reflective of a deeper systemic bias in the way that political philosophy is practiced:

Ideal theory… is really an ideology, a distortional complex of ideas, values, norms, and beliefs that reflects the nonrepresentative interests and experiences of a small minority of the national population—middle-to-upper-class white males—who are hugely over-represented in the professional philosophical population. Once this is understood, it becomes transparent why such a patently deficient, clearly counterfactual and counterproductive approach to issues of right and wrong, justice and injustice, has been so dominant.\textsuperscript{32}

Thus, the downplaying of social circumstance and group identity or the privileging of autonomous self-definition are, in fact, are largely representative of the concerns of a small cultural group, rather than the universal ideals they are standardly taken to represent. This, for Mills, is largely a consequence of the ideal method, in which a “nonrepresentative phenomenological life-world [is] (mis)taken for the world”.\textsuperscript{33}

There is, then, a major difference between the critiques of Farrelly and Mills: for Farrelly, the problem with ideal theory is simply a matter of the distance between the idealised social world theorists imagine and the actual social world, whereas for Mills it is the uneven nature of this distance – that it may be closer to the experiences and ideals of certain social groups than others. However, I believe both critiques are misplaced, as they appear to conflate issues regarding the formulation and justification of ideal principles with those of its applicability in a range of circumstances, as I shall now demonstrate.

\textsuperscript{32} Mills, ‘Ideal’. p.172.

\textsuperscript{33} Ibid.
2.4 Response to the strong critique

In Section 2.1, I argued against perceiving fact-insensitive and fact-sensitive theories of justice as falling on a scale running from ‘more ideal’ to ‘less ideal’, instead noting their different responses to the question ‘What is justice?’ What is striking about the two nonideal critiques outlined above is that most of their criticisms instead are based on the question ‘What does justice have to say about $x$?’ For Farrelly, this $x$ is a range of pragmatic policy and budgetary debates, for Mills it is the exclusion or oppression of particular groups. The overall structure of their criticisms takes the following form:

A → Ideal theories of justice are based upon a number of questionable simplifying abstractions;

B → Ideal theories of justice are silent/do not provide specific direction in regard to nonideal feature $x$;

C → If we are concerned with dealing with $x$, we should reject the simplifying abstractions of ideal theories of justice.

I advance three particular responses to this strong variation of the critique of ideal theory. The first, largely addressed towards Farrelly, is to defend the use of assumptions as a practical component of fact-sensitive theories of justice. Proceeding from this, the second response will seek to clarify the relationship between ideology critique and fact-sensitive ideal theory, in order to suggest that the questioning of particular assumptions need not necessitate a wholesale rejection of ideal theory. Finally, I examine claim B in more detail, in order to assess whether it is reasonable to expect principles of justice themselves to specifically address particular nonideal facts. Instead, I seek to distinguish action-guidance from action-direction, suggesting that the strong nonideal critique would require theories of justice to provide the latter, whereas it is actually the former that is being supplied. As a result of these three responses, I believe C fails to stand as a viable claim about how we ought to approach political theorising.

2.4.1 The practical orientation of Rawls’ ideal theory

Within the strong nonideal critique is the suggestion that the manner in which ideal theory proceeds is too far removed from the practical concerns of real world
conditions. However, Farrelly overstates this claim, ignoring the guiding role played by practical concerns within Rawls’ theory. As noted above, for fact-sensitive theories, questions of justice arise in and are conditioned by particular contexts and circumstances. Andrea Sangiovanni characterises such views as “practice-dependent”. That is to say, they rest upon the belief that “institutions put people in a special relationship, and it is the nature of this special relationship that gives rise to first principles of justice that would not have existed otherwise.”

Such a view would therefore stress the importance of Rawls’ fundamental presupposition that society be considered as a fair system of social cooperation between free and equal persons. In turn, this would suggest that the intention of the original position (and the ideal assumptions included within its design) is primarily intended as a means to clarify what such a claim entails from the perspective of justice. This means that the ideal assumptions to which nonideal critiques take exception are not simply arbitrary, but are rather to be regarded as informed by an interpretation of the role of institutions within a society conceived in this manner and the demands placed upon free and equal citizens by such institutional forms. The strong nonideal critique therefore either ignores or underplays the practical purpose lying behind ideal theories of justice.

To illustrate this point, I wish to consider one of the devices used by Farrelly to undermine the validity of ideal theorising – a parody of the original position. Within this parody, Farrelly suggests we should imagine the process of planning and designing a new airport, a process that will be guided by principles outlined by Dave, 

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**34** Andrea Sangiovanni. ‘Justice and the Priority of Politics to Morality’. *The Journal of Political Philosophy*. Vol.16, no. 2 (2007), p.4. It is worth noting at this point that responses to Rawls’ work have varied significantly in terms of the aspects of his work they emphasise. As a result, there is a significant range of Rawlsian perspectives, with some stressing the abstract normativity of the principles while others take a more realist stance in drawing attention to the practical and situated elements of his work. Discussions of practice-dependence tend towards this latter perspective.

**35** This appears in an earlier version of Farrelly’s article ‘Justice in Ideal Theory: a refutation’, presented to the Canadian Political Science Association, University of Western Ontario in June 2005. It was not included within the published version of the article. However, I believe it merits discussion as it is illustrative of some of the problems with Farrelly’s position. The text of this particular version of the paper can be found at http://www.cpsa-acsp.ca/papers-2005/Farrelly.pdf
an aviation expert. Seeking to parallel the Rawlsian approach, Farrelly suggests that Dave would make a number of simplifying assumptions, because he is working at the level of ideal theory:

1. Assume that concerns of airplane safety, noise and pollution do not arise. So no airplane ever has a malfunction and no citizens will complain about the inconvenience of having an airport in their neighbourhood.

2. Assume that society is a closed society and thus all flights will be domestic flights.

3. Assume that all passengers who will use the airport will be “normal functioning” passengers. That is, no passengers will have physical disabilities that will limit their mobility of getting around the airport or boarding and leaving airplanes.

4. Assume that issues of domestic security do not arise. So there are no terrorists or criminals and thus the airport does not need to worry about the costs associated with extensive check-in procedures.

5. Assume that there will always be good weather so that flights will not be delayed or cancelled due to weather.\(^\text{36}\)

From such assumptions Dave moves on to imagine what the representative passenger would want if placed behind a veil of ignorance. Not knowing details such as their restaurant or shopping preferences, details of their flight or whether travelling with children, Dave surmises that they seek to maximise their share of airport primary goods, including safety, prompt departure and safe transit of their baggage.

In the light of such considerations, Dave arrives at three principles, arranged in serial order, that he takes as fundamental for guiding airport design:

\(^{\text{36}}\) Ibid. pp.4-5. Of the list of assumptions set out here, numbers 1, 4 and 5 seem to be attempts to parallel the assumption of full compliance, number 2 is in reference to the assumption that society is a closed, isolated system and number 3 refers to the assumption that persons capabilities fall within the normal range of functioning.
Principle 1: All persons (both passengers and flight crew) have the same indefeasible claim to safety. (*equal basic safety principle*)

Principle 2: Equal opportunity for boarding your flight promptly and departing on time. (*principle of fair equality of opportunity*)

Principle 3: We should maximize the promptness of getting the last pieces of baggage unloaded from an airplane to the baggage reclaim area. (*maximin baggage reclaim principle*)

The method Dave uses to derive these guiding principles is supposed to strike the reader as both strange and totally impractical. Ignoring considerations such as weather, congestion, security measures, noise or accessibility would produce an airport that was ill-suited to the demands and considerations we would expect of it. Given that we would think it “wrong to invoke Dave’s method of ideal theorising about airports, is it not also inappropriate to invoke similar ideal theorising about questions of distributive justice?”

One initial problem with such an equivalence is the fact that there is an explicitly moral dimension to questions of distributive justice, whereas the design of an airport is a practical concern. Therefore it seems highly appropriate for individual preferences to be laid aside in order to derive impartial principles of just distribution, in a manner that would be baffling in considering what passengers (or airline staff, airport security, air traffic control or other airport users) would prefer in regard to the design of an airport.

But, even beyond this, it is not impossible to imagine airport designers clarifying principles of good airport design by producing a prototype of an ideal airport – one that abstracts from some of the practical concerns that would have to be dealt with in drawing up plans for an actual airport. They may, for instance, assume no limitations of space when considering the footprint of the site. Alternatively they may opt not to consider the precise logistics of how transport connections might link up

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37 Ibid. p.5. These are again designed to mirror Rawls’ principles of equal basic liberty, fair equality of opportunity and the difference principle, respectively.

38 Ibid. p.7. Farrelly, of course, answers in the affirmative.
with existing networks. In calculating the time it would take for passengers to reach boarding gates, a standard walking speed may be assumed. In other words, there are many possible assumptions or simplifications that, although creating distance between the ideal prototype and the daily functioning of a real-world airport, may help to clarify design principles that would still be useful in approaching the design of an actual airport. What is important is the extent to which the assumptions are appropriate in helping to clarify the point and purpose of the practice under consideration.

So, we might wish to reject the idea that simplified, abstract inputs necessarily undermine theoretical outputs. But, an opposing concern might instead be raised: that fact-sensitive ideal theories make too many concessions to the status quo, and so are unable to provide critical perspective upon oppressive social forms. In order to assess this issue, it seems apposite to consider the points raised in Mills’ critique, in which he places the assumptions of ideal theory under close scrutiny.

2.4.2 Ideal theory and ideology critique

Mills’ critique of ideal theory stresses the extent to which the assumptions made within ideal theory are not innocent, and may in fact serve to maintain or legitimise institutional forms or structures that have been built on oppression or marginalisation. Such a perspective suggests that, rather than trying to reshape institutions in line with ideal principles, what we should instead be attempting to do is to uncover and reveal the manner in which the history and functioning of these institutions may limit or constrain our thinking, thus perpetuating exclusionary dynamics. In this respect, it seems to be of a kind with a long tradition of ideology critique encompassing, amongst others, Hegelian, Marxist, Nietzschean or feminist perspectives. What unites such views is their belief in “the centrality of oppression”\(^{39}\), maintaining that:

Instead of the idealized cognitive sphere that ideal theory tends to presuppose, Marxists, feminists, and critical race theorists all have, as part of their

theoretical analysis, elaborate *metatheories* (theories about theories) mapping how systems of domination negatively affect the ideational.\textsuperscript{40}

Hence, such views are likely to be highly attuned to the appropriateness of assumptions made when theorising; alert to the dangers of particular perspectives being taken as general or typical.

Yet, unless succumbing to relativism, such views do not typically discount the need for generality within moral principles. Indeed, Mills is keen to stress that he is not critical of the urge within ideal theory towards a general account, merely suspicious of the degree of generality that has actually been achieved: “[t]he problem is that they are *deficient* abstractions… not that they are abstractions *tout court*.”\textsuperscript{41} Therefore, this suggests that ideal theory and ideology critique may not be fundamentally opposed, but may instead share an aim, in attempting to realise institutional forms that do not disadvantage any particular individual or group.\textsuperscript{42} If this is the case, then it is entirely possible for a critique to be critical of particular assumptions and the effect they have upon a resulting ideal, without completely abandoning the methodology of ideal theory.\textsuperscript{43}

If it is possible to maintain a stance that is critical of the exclusionary effects of particular abstract assumptions without abandoning the search for general, abstract first principles, why then does Mills maintain the superiority of nonideal to ideal theory? This seems, largely, to be due to the silence of ideal theories of justice on issues of racial and gender domination. Rawls’ theory, he suggests, is blind to the “ongoing

\textsuperscript{40} Ibid. p.174.

\textsuperscript{41} Ibid. p.173.

\textsuperscript{42} Sangiovanni explicitly suggests such a relationship between normative theory and ideology critique: “It may even be… that the most plausible way to conceive of ‘progress’ in political philosophy would be through a kind of dialectic between these two different modes of engaging in social critique; that is, between the one [ideology critique] which seeks to demystify what the other [normative political philosophy] seeks to construct.” Sangiovanni. ‘Justice’. pp. 26-7.

\textsuperscript{43} For example, Rawls’ initial assumption in *A Theory of Justice* that the parties in the original position were “heads of families” (p.128) came under intense scrutiny from feminist opinion, even where this was sympathetic to his overall project. See S.M. Okin ‘Justice and Gender.’ *Philosophy and Public Affairs*. Vol. 16, no. 1 (1987), pp. 42-72.
and central injustice” represented by legacies of oppression bequeathed by “nonideal facts about imperialism, slavery, Jim Crow, segregation, and their ilk, that have shaped the United States and the modern world”\textsuperscript{44}. But to what degree should we expect principles of justice themselves to provide specific comment upon or precise direction within nonideal circumstances?

2.4.3 Action guidance and action direction

As I have made clear above, both Mills and Farrelly suggest that ideal principles of justice are either too distant from, or are silent about, salient features of the nonideal world. One of the primary charges Farrelly lays against Rawlsian ideal theory is that the use of priority rules renders the principles of justice “impotent”\textsuperscript{45}. Fulfilling the requirements of Rawls’ prioritised first principle could be a task so strenuous that no society could successfully complete it, let alone be able to then attend to achieving fair equality of opportunity or satisfying the difference principle. Yet, this view overstates the degree of guidance expected from principles of justice. Instead of guidance, such a critique seems to expect that principles of justice will provide \textit{immediate direction} to our actions and policies, in a manner Onora O’Neill has defined as algorithmic: “that they must determine answers for all cases that fall under them and that particular decisions must be given by, and so be deducible from, rules.”\textsuperscript{46}

Similarly, the suggestion seems to be that when theorists arrive at a set of principles they should then expect them to be applied immediately and in-full in all situations. But this is quite clearly not the argument that Rawls is advancing:

\begin{quote}
By putting the principles in lexical order, the parties are choosing a conception of justice suitable for favourable conditions and assuming that a just society can \textit{in due course} be achieved. Arranged in this order, the principles define then
\end{quote}

\textsuperscript{44} Mills. ‘Ideal’. p.179.

\textsuperscript{45} Farrelly. ‘Justice’. p.852

a perfectly just scheme; they belong to ideal theory and set up *an aim to guide the course of social reform*.47

Rawls, therefore, is obviously not advocating an algorithmic approach capable of directing each decision we are faced with. Indeed, there is no reason to suggest that an appropriate set of normative principles must be algorithmic in this manner. Just as, to return to the analogy of an ideal airport prototype, it would be strange to expect such a design to be capable of being transplanted wholesale into an actual site for a new airport (due to considerations of space, topography, transport links, design of flight paths, prevailing winds, planning regulations or any other of a range of nonideal concerns), so it is almost certain that principles of justice will not provide complete answers to all of the problems of real world societies. Yet, in the critique Farrelly outlines, there seems to be an expectation that such a direct level of applicability is the aim of ideal theorising. Given this stance, it is no surprise that Farrelly then advocates the principle of utility – one of the few principles that, supposedly, can offer this level of simple applicability within varying circumstances.48

If, however, the principles derived within ideal theory are not expected to direct our actions but are thought of instead as specifying the goal of reforms, then one of the roles of nonideal theory is clarified: to specify policies that take us towards a situation in which the ideal principles are not violated. The policies that may be suggested by Rawlsian nonideal theory are not without constraint, but should rather be “not only morally permissible, but also politically possible and likely to be effective.”49 However, they need not be stringently structured in line with ideal principles. Therefore Farrelly’s concerns about the cost of rights and the role of priority

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48 Although, as O’Neill notes, this prospect is itself based upon a number of idealising assumptions, which do not hold for actual decision making: “Since [decision makers] lack complete information about what is possible and cannot individuate options exhaustively they cannot list all available options. Since they lack a comprehensive science of society they cannot foresee all expected consequences. Since they lack cardinal and interpersonally comparable utilities they cannot evaluate and maximize… Without these implausible idealizations utilitarianism’s calculating aspirations cannot be fulfilled.” O’Neill. ‘Abstraction’. p.59.

rules seem less pertinent. In dealing with situations where material considerations make the effective establishment of the full range of rights unlikely or unworkable, there is no expectation for the demands of the lexically ordered principles to be wholly fulfilled. Instead, in such a situation Rawls recommends that the general conception of justice is applied, allowing some limitations to individual rights where they are “necessary to prepare the way for a free society.”

In sum, then, it seems that the strong nonideal critique is misplaced to the extent it expects specific and well-defined direction from principles of justice. Rather, ideal principles should be considered as defining the goal to be achieved, with the less ideal components of normative theory helping to specify appropriate means for reaching such a goal. Such theoretical resources are certainly sufficient to provide guidance for political action.

A similar point may be stressed in response to Mills’ critique of ideal theory: that it appears to seek things that principles of justice are not intending, or in an adequate position to provide. In the same way that Farrelly has been shown to be demanding from principles of justice an excessively overt capacity for action direction, so Mills appears to expect a complete response to historic oppression. This can be seen in the links Mills tries to draw between the historical facts of oppression and the practice of ideal theory:

Can it possibly serve the interests of women to ignore female subordination, represent the family as ideal, and pretend that women have been treated as equal persons? Obviously not. Can it possibly serve the interests of people of color to ignore the centuries of white supremacy, and to pretend that a discourse originally structured around white normativity now substantively,

50 Rawls. *Theory.* p.152. The general conception of justice takes the following form: “All social values – liberty and opportunity, income and wealth, and the social bases of self-respect – are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone’s advantage” Rawls. *Theory.* p.62. This therefore would allow some limitations in liberty in the name of an improvement in material conditions, at least until conditions are such that the provision of a “fully adequate” (Rawls. *Justice.* p.42) scheme of basic liberties is possible.
as against just terminologically, includes them? Obviously not. Can it possibly serve the interests of the poor and the working class to ignore the ways in which an increasingly inequitable class society imposes economic constraints that limit their nominal freedoms, and undermine their formal equality before the law? Obviously not.\textsuperscript{51}

Again, such issues depend on what we expect from principles of justice themselves, as opposed to the intentions of the wider conception of justice to which they give direction. Any conception of justice that was completely blind to subordination or domination would obviously be inadequate, but to expect the intricacies of social dynamics to be wholly contained within ideal principles seems a far more extensive and impossible demand.

So, the appropriate question for critics to ask is whether the particular conception of justice has resources at its disposal to critique social structures that perpetuate dominance or marginalisation. If such a charge were made towards Rawls, it seems obvious that the egalitarian content of his principles would provide a strong counter to any systematic exclusion on the grounds of gender, race or class. But this commitment should not be regarded as merely formal, as Mills suggests it is, but rather would require a close examination of the system itself – one that extends beyond the scope of the principles themselves. For instance, in regard to issues of gender:

If we say the gender system includes whatever social arrangements adversely affect the equal basic liberties and opportunities of women, as well of those of their children as future citizens, then surely that system is subject to critique by the principles of justice. The question then becomes whether the fulfilment of these principles suffices to remedy the system’s faults. This depends in part on social theory and human psychology, and much else.\textsuperscript{52}

This latter point seems important in responding to Mills: although principles of justice may be capable of providing critique to structures of domination, or of offering

\textsuperscript{51}Mills. ‘Ideal’. p.172.

\textsuperscript{52}Rawls. Justice. pp.167-8
guidance to their reform, they cannot be expected to define complete solutions to all problems of human interaction. To the extent that Mills expects such a complete response to issues of domination as an output from ideal theory, his expectations are misplaced.

If it is accepted that complete solutions to many social problems (even problems that can accurately be characterised as issues of social justice) cannot be directly and completely resolved by principles of justice alone, then the rejection of ideal theory advocated by Mills and Farrelly cannot be sustained. Indeed, it seems akin to someone refusing to travel by plane when going on holiday because the flight will only take them to an airport, not all the way to their hotel. Yet, despite rejecting this strong version of the nonideal critique of ideal theory, I still believe that there are some important and relevant issues that must be considered in regard to the relationship between theoretical ideals and social reform.

2.5 The importance of the nonideal critique

I began the previous section by suggesting that the strong nonideal critique of ideal theory could be thought of as taking the following form:

A  Ideal theories of justice are based upon a number of questionable simplifying abstractions;
B  Ideal theories of justice are silent/do not provide specific direction in regard to nonideal feature x;
C  If we are concerned with dealing with x, we should reject the simplifying abstractions of ideal theories of justice.

One of my key claims in the preceding section is that answering the question, ‘what would a fully just society look like?’ does not immediately tell us what justice requires

53 As Rawls notes, how best to achieve women’s equality within the family “in particular historical conditions is not for political philosophy to decide.” Ibid. p.167.

See also, the following summary from Valentini. ‘Paradox’. p.345: “A theory of social justice is, indeed, a theory of social justice: its aim and ambitions are limited to a particular normative sphere. It is therefore unreasonable to expect such a theory to address all forms of injustice occurring in both public and private relations. So long as the theory’s principles are plausible tools with which to secure citizens’ status as free and equal, the theory succeeds in achieving its aim.”
in all aspects of social life. Yet, I also claim that this should not be a cause for concern. Political philosophy should not be thought of as a singular activity, with a single appropriate methodology. Many different questions present themselves to political philosophers, and the precise level of factual input necessary to provide an effective answer will differ from case to case. In questions relating to social institutions, a range of more or less factually sensitive perspectives may be advanced. The challenge for ideal theories, which relates back to the above claim A, is to prove that the specific assumptions employed are appropriate to the question being addressed.

Meanwhile, although it may be unreasonable to expect direct prescriptions for complex situations based solely on ideal principles, it is not unreasonable to ask that some thought be given towards either the extension of theories to consider nonideal features of social life, or to favourable courses of action for the realisation of ideals. Therefore a response to challenge B is to draw attention to the full range of questions that might be considered by political philosophers, beyond simply the outline of what a fully just society would look like. I will now offer some suggestions as to how these two varying responses ought to be pursued.

2.5.1 What may be assumed in ideal theory?

I have contended that Rawls’ theory may appropriately be distinguished as an example of a practice-based theory of justice. This suggests that it should be constrained to some degree by factual considerations and should address itself to the nature of the institutional relationships that structure social life. As argued above, within this particular task, it is not inappropriate to make use of simplifying assumptions in order to clarify the point and purpose of the practice and institutions under examination. But this is not to assert that simplifying abstractions will always be unproblematic. So, what considerations should be taken into account in assessing how abstractions may be appropriately used?

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Given that practice-dependent views seek to emphasise the importance of existing institutional forms as the basis for our understanding of what justice requires, this suggests one important role for simplifying abstraction: to develop an assessment of the morally salient features of a particular practice or set of institutions, guided by an understanding of their essential point and purpose. For instance, since Rawls views society as a system of social cooperation, it does seem appropriate for him to presume full compliance, in order to work out principles for regulating cooperative behaviour. Dealing with those who are unwilling or unable to cooperate is, then, a separate and subsequent question. This does, however, require a distinction between necessary facts about the workings of the practice and purely contingent facts of the situation. Theoretical positions that attempt to abstract away from necessary facts may be open to criticism.

As an example, consider the shift in Rawls’ position from that outlined in A Theory of Justice to that advocated in Political Liberalism. This shift may be attributed to Rawls’ recognition that an essential fact of social life under liberal institutions – the fact of reasonable pluralism – had been given insufficient attention within his earlier work. As a result, Rawls suggests that the idea of a well-ordered society developed within A Theory of Justice is, “unrealistic… because it is inconsistent with realizing its own principles under the best of foreseeable conditions.” In other words, Rawls is acknowledging that previously he had not treated the plurality of reasonable perspectives within liberal society as an essential fact of social life, but had rather assumed that a viable solution to questions of justice could be formulated on the basis of comprehensive liberal assumptions. Some have suggested that Rawls’ amended outlook concedes too much ground to factual considerations and that theories of liberal justice should not be making concessions on account of the plurality of perspectives. The dispute, however, seems most appropriately to be considered as one over the degree to which pluralism is an essential feature of liberal societies, and whether it can

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or cannot be overcome in a just manner. This underscores the degree that judgements about feasibility and interpretations of the fundamental character of social practices will influence and shape theories of justice.\(^{57}\)

One further consideration in regard to abstractions within ideal theory is that they will be ineffective if they idealise the subject of their requirements. That is to say, although idealisations may be appropriate in the formulation of principles, their applicability should not be dependent upon the existence of idealised forms. Valentini argues that Rawls’ *Law of Peoples* falls foul of this requirement, as the demands made by the theory’s principles assume that just background conditions are in place within individual political communities.\(^{58}\) That is, they specify how relatively well-ordered liberal societies should act towards unfortunate burdened societies or outlaw states. However, many of the problems of global justice are actually caused or perpetuated by systems of global trade or influence shaped by actual liberal states. To build a theory around the assumption of just actors seems, then, to mischaracterise the relationships involved in a manner that makes the prescriptions of the theory largely irrelevant to the real world circumstances it aims to tackle. In comparison, although Rawls’ domestic theory assumes full compliance and a normal range of functioning in the stage of selecting and justifying principles, the well-ordered society it aims for is not totally reliant upon these features for its viability.

In sum, fact-sensitive theories should attempt to produce an undistorted account of the practices and social forms they are intended to regulate – one that does not abstract away from essential factual considerations. There is, however, no need for theories of justice to abandon ideal theorising, provided that thinkers are attentive to the relevant facts of the situation they are considering. But, even if appropriately sensitive principles are deduced, there may still be further work required in order to

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\(^{57}\) So, although the generalised critique of abstraction fails, and some disputes are best characterised as having participants talk past each other because the nature of the question they are asking differs, there do remain genuine points of contention about which facts should and should not be considered as relevant to the shaping of particular theoretical arguments.

provide close guidance to action or to develop feasible policy or institutional proposals. This is a task that must also be considered as part of nonideal theory.

2.5.2 Nonideal circumstances and nonideal theory

Much of the work conducted within normative political theory has been focussed upon the selection, justification and defence of first principles. As I have argued above, if the nonideal critique is attempting to suggest this effort is in itself inappropriate, then this critique is misplaced. However, it may still be the case that there is valid point to be made in terms of the balance of aims pursued within political theory. If normative principles on their own should not be expected to provide direct guidance to action, then some additional work may be necessary in order to translate these principles into practical guidance for specific sets of nonideal circumstances. To the extent that political philosophers want to make a practical difference to the world, their neglect of this important task may be a focus for criticism.

It may be objected that this criticism risks over-reach on the part of the political philosopher – that such practical considerations should be the concern of social scientists or policy experts rather than requiring further normative input. Yet, I maintain that such a strict division of labour is unlikely to always lead to the outcomes envisaged by ideal theory. For conceptions of justice are rarely straightforward, and their component parts may exist in a delicate balance. As Jonathan Wolff notes, in discussion of luck egalitarian approaches:

If policy makers were to read Dworkin and others, what message might they come away with? That egalitarians, like conservatives, now favor highly conditional welfare benefits. But in the real world this does not give us egalitarianism. Rather, it gives us Thatcherism, in which the poor are singled out for insulting levels of scrutiny.59

This can be seen as indicative of a concern for the application of ideal theories – policies or actions that may be unproblematic against fair background conditions may

exert a completely different dynamic in alternative situations, hampering the overall aims of the theory.

So the simple pursuit of an ideal scheme of justice is certainly not an activity that is sufficient to provide guidance to social reform, without further work. But a further question that becomes apparent is whether a full social ideal is even a necessary condition for making social institutions more just.\(^60\) It is certainly true that institutional improvements or policy prescriptions may be made to the status quo without reference to a full social ideal.\(^61\) Yet, there may be occasions where an attempt to deal with a particularly apparent injustice may prove counterproductive. As Simmons notes:

A particular policy might, for instance, be a good bet for remedying a particular injustice (or kind of injustice), while at the same time being a policy that retarded, stalled, or set back efforts to achieve overall justice. Or a policy that would completely eliminate some injustice at a stroke might in fact be a worse policy than some more modest one, if we focus not on the particular injustice in question but instead on the goal of eventually achieving perfect justice.\(^62\)

While such arguments from path-dependence do not definitively prove the necessity of ideal theory for social progress, there does seem to be value in developing short-term reform proposals that are congruent with a wider ideal goal. Doing so helps to provide some assurance that today’s policy solutions do not become tomorrow’s dead-end.

Thus, one key question within nonideal theory is the effort to elucidate effective means to achieve ideal aims. This is dependent upon a careful weighing of options to assess their short-term and long-term effectiveness, alongside a well-developed understanding of both the dynamics through which injustice is sustained and also the

\(^60\) The most prominent advocate of the view that progress can be made on a comparative basis without the need for appeal to a transcendental ideal is Amartya Sen: “If a theory of justice is to guide reasoned choice of policies, strategies or institutions, then the identification of fully just social institutions is neither necessary nor sufficient.” The Idea of Justice (London: Penguin: 2010), p. 15.

\(^61\) See, for example, the policy discussions within Jonathan Wolff’s Ethics and Public Policy: A philosophical inquiry (London: Routledge: 2011).

likely precursors for support for the transition to a more just society. Although it is true to say that this cannot solely be delivered by the political philosopher – work within the social sciences or public policy is also essential – it is equally undeniable that political philosophy can, and should, contribute to this task.

Overall, what is suggested by emphasising the transitional question within nonideal theory is that a simplistic adherence to ideal principles may not be an effective approach for the realisation of a just society. Therefore, while political philosophers must be aware of the role played by ideal principles in articulating their conceptions of justice, they must not lose sight of the fact that realising the conception of justice may require some departures from said principles. This may well involve solutions that feel messy or piecemeal in comparison with the strict serial ordering that may be obtained by ideal principles. Yet, this should neither be taken as an indication that it is not a valid pursuit for political philosophy, nor that it represents a superior approach that is more attuned to the realities of real-world circumstances. Instead, if we accept that “there is no real conflict between ideal and nonideal theory”, then it is possible to “see all normative theorizing as part of a common project: the use of ideal theory techniques contributes to the use of nonideal theory techniques (and vice versa).” Such an understanding may help to provide an appreciation of the complex interplay between ideals and practical politics.

2.6 Conclusion

Fact-sensitive theories of justice aspire to provide an outlook that is realistically utopian. That is, they take seriously certain constraints of feasibility and are mindful of the institutional context they aim to shape. As a result, the charge that they remain too idealised and utopian, if it were to stand, would severely undermine their worth. In this chapter, I have argued that such a charge cannot be sustained. The two main critiques I have examined place unrealistic demands upon normative principles, which cannot be realised as principles will, inevitably, have a degree of generality that

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63 Stemplowska. ‘What’s Ideal?’ p.339. I would also concur with the suggestion that follows the quoted text, that “political theorists have already made extensive use of ideal theory while neglecting nonideal theory.”
prevents them from providing complete answers to intricate problems of social interaction. Yet this is not sufficient to demonstrate the undesirability or unsuitability of ideal theory for helping to guide our actions or institutions.

Instead, I have argued that there may be additional work required in assessing how the animating spirit of ideal theories may best be applied to the complexities of a nonideal world. This requires an acceptance that evaluation of our current circumstances, or an attempt to make the transition towards a just, well-ordered society may not necessarily be achieved via a simple appeal to ideal principles. So, for instance, more may need to be said about the functioning of labour markets than a simple reliance upon the distributive account. What, then, might be the key considerations for political philosophers when approaching nonideal circumstances? In Chapter 3, I will turn attention to this particular question, by providing a focus upon the social forms required to support a sense of justice, as outlined in Rawls’ work. This will provide a means for outlining the most pertinent areas of concern with regard to the transitional role that nonideal theory might be expected to perform.
Chapter 3: The Content of a Rawlsian Nonideal Theory

The previous chapter argued that, although a nonideal critique that suggests we jettison the abstractions of ideal theory entirely may be misplaced, there is still a vital role for nonideal theory in suggesting how we might best evaluate our current circumstances and identify the most urgent targets for reform. One key function of this task is to work out how we might move from current circumstances towards the establishment of a society ordered by ideal principles. Yet, as I have previously noted, given the general nature of normative principles, the means to achieve this might not be immediately deducible from said principles. In this chapter I wish to complement this account of the function of nonideal theory with a clearer specification of the potential content of a nonideal theory inspired by the Rawlsian account of justice as fairness.

One essential feature for any theory that has transitional aspirations will be to posit an assessment of the relationship between normative principles and people living in the world as it is. I begin (§3.1) with an outline of a simple account of what this relationship might be: the idea that normative principles should be regarded as authoritative over nonideal circumstances as they uncover the truth of our obligations. Yet, as the basis for a transitional account, I will argue that this understanding of the relationship is inadequate. Authority cannot simply be won by an assertion of correctness. Any attempt to do so will require either a reliance upon coercive force, or will risk being sidelined as an irrelevance. What is required to avoid either of these situations is to develop an understanding of the moral psychology that would provide the base for citizens to endorse the institutions of a well-ordered society of their own accord.

In order to pursue this task, I will track (§3.2) the substantial changes within Rawls’ account of moral psychology that occurred between A Theory of Justice and Political Liberalism. Throughout his work Rawls was keen to demonstrate the psychological viability of just institutions. Within A Theory of Justice this is reliant upon
an argument for the intrinsic good of justice, an argument with which Rawls would later express dissatisfaction. I will argue that, in changing this account to that of a purely political conception of justice, Rawls himself must develop an outline of a plausible transitional account of moral psychology, with the idea of reciprocity at its core.

Having outlined this account, I assess (§3.3) the degree to which Rawls’ views actually provide a feasible account of how just institutions may develop. In particular, I examine two specific challenges to his account. The first is based upon what has been termed the ‘parasitic liberalism thesis’\(^1\) – the idea that liberalism is not capable of supplying the attitudes it relies upon. If this were true, then the ongoing operation of liberal institutions may undermine reciprocal inclinations in a way that would prevent a transition to a truly just well-ordered society. The second challenge is that, irrespective of whether principles of justice actually are feasible, if they are viewed as utopian, unrealistic and beyond the scope of political agency, they are unlikely to be complied with.

In order to assess these challenges, I will consider some empirical evidence about moral motivation, drawn from experimental economics. Although this evidence provides good reason to reject the parasitic liberalism thesis, it does raise the significant possibility that market interactions may ‘crowd out’ benevolent motives. Equally, there is evidence to support a claim that the expectation of compliance from others is more important than normative expectations in predicting adherence to a rule, suggesting the second challenge may be pertinent. Having considered these arguments, I will be able (§3.4) to delineate more thoroughly an account of the features of a theory that could guide attempts at social reform. I argue that three elements are necessary for the reform of a practice: an understanding of the role played by the practice within current circumstances, and of why people willingly affirm it; an account of the role the practice fulfils within the functioning ideal; and an assessment of any features of the current functioning of the practice that may undermine the potential for progress towards the ideal.

3.1 Philosophical ideals and social institutions

The previous chapter suggested that one of the functions of nonideal theory is to suggest how we might proceed in current circumstance in a manner that might help realise a specified ideal. This suggests that one component of nonideal theory is that it should have a transitional purpose, either directing social forms closer to the desired ideal or moving past obstacles that are currently preventing its realisation. In order to develop this sort of transitional account, we require a more detailed understanding of the relationship between the ideals of political philosophy and the practical organisation of the institutions of social life.

One way of conceiving of this relationship would be to simply assert the authority of ideals over social life. If the aim of ideal theory is to uncover the truth about the best possible scheme of social organisation, then surely once it is uncovered we come under a duty to comply with its recommendations. For many political philosophers, the ultimate purpose of their activity must be the pursuit of the truth about the duties we all fall under within social relationships. Such an approach appears to offer the political philosopher a role that is both noble and distinct: they are to pursue the best conceivable form of social organisation, with the task of assessing how – and indeed if – this is to be achieved relegated to a subsidiary role.

Yet, two significant problems beset this method of conceiving the relationship between theorising social life and the business of reforming the actual practices of social life. The first is the worry that this understanding of the role of the political philosopher invites a descent in sectarian squabbling over the nature of the true moral basis for social life. This is not simply a case of disagreements about the fundamental basics of social ideals, such as claims about the existence of pre-social libertarian rights or assessments of the value of equality, but also of internecine argument over the precise manner in which accepted values ought to be interpreted and enacted. The stridency with which differing positions are defended within the field of political
philosophy suggests caution about the discipline’s ability to locate the truth about the best form of social life.²

Yet, even were such a truth to be established, a second worry occurs, relating to the authority of the truth as a potential basis for the organisation of collective activity. One of the major insights of Rawls’ later work is the idea that, even were a philosopher to establish the truth of the best form of social life with absolute certainty, it is unreasonable to expect that this grants immediate authority over others. As a result, any effort to impose a governing scheme based upon the truth of a theoretical account raises uncomfortable worries about coercive imposition. Hence, to simply posit the task of the political philosopher as being the search for truth risks leaving political philosophy as either an interesting yet not practically relevant sideshow, or a worryingly paternalistic imposition. In order to avoid either of these fates, one of the key facets of any political theory must be the need to understand the moral psychology that could allow individuals to come to accept an order based upon the principles it advocates. Notably, an attempt to respond to this problem was one of the central components of Rawls’ work. I believe that a focus upon this aspect of Rawls’ theoretical schema can not only help to account for the development of his ideas, but can also help to explain how we might best approach the task of identifying key practical reforms to the social and political orders we inhabit.

### 3.2 The psychological preconditions of a just social order

Discussions of the moral psychology of a just society within Rawls’ work are generally framed around the issue of “stability”. That is, he wishes to demonstrate that his opinions do not draw a picture of society that could only be established and maintained coercively and so tries to show that his theory does not make excessive demands upon the attitudes and outlook of its citizens. It is important to note, however, the extent to which Rawls made significant changes to this account as his work developed, responding to what he saw as previous deficiencies within his

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argument. I believe that an examination of these changes can be highly instructive for understanding of the most important psychological factors required for establishing just institutions.

I will begin with an extensive outline of the account given within *A Theory of Justice*, of which there are two main component parts. The first is the account of the development of a sense of justice (§3.2.1), the second is the argument for the congruence of justice with the good (§3.2.2). Taken together, these components provide a case for the intrinsic worth of just institutions as the fulfilment and full realisation of our nature. Yet, Rawls came to believe that this particular argument was flawed, and so outlined an alternative account of stability in *Political Liberalism* that makes no appeal to any comprehensive account of the good (§3.2.3). Consideration of Rawls’ revised account of stability will allow me to provide a reconstruction of how the transition towards a just social order might be achieved, in terms of the requisite attitudes and inclinations of citizens (§3.2.4). In doing so, I will draw attention to the key role played by an individual’s sense of justice and highlight the social forms required for sustaining the commitment to reciprocity that allows this sense of justice to develop.

### 3.2.1 The sense of justice

Within Chapter 8 of *A Theory of Justice* (‘The Sense of Justice’) Rawls begins to develop the account of moral psychology upon which the general acceptability of his theory depends. He first provides an account of how just institutions would be capable of incubating attitudes that are inclined towards, and supportive of, their continued stable functioning. This account is then supplemented – within Chapter 9 (‘The Good of Justice’) – by an attempt to demonstrate that people would fully, regularly and enduringly comply with the demands of justice.

Rawls suggests that a conception of justice is “seriously defective if the principles of moral psychology are such that it fails to engender in human beings the requisite desire to act upon it.”

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itself in a state of rough equilibrium in which such institutions would be able to secure
attitudes and behaviour that would be supportive of the ongoing functioning of justice
as fairness:

when institutions are just… those taking part in these arrangements acquire
the corresponding sense of justice and desire to do their part in maintaining
them… The stability of a conception depends upon a balance of motives: the
sense of justice that it cultivates and the aims that it encourages must normally
win out against propensities toward injustice.⁴

The account of moral development offered takes as its starting point that of a well-
ordered society whose institutions are reflective of the ideals of justice as fairness and
describes how individual members of that society would come to develop an amenable
sense of justice.

Reflecting insights taken from the developmental psychology of Lawrence
Kohlberg, Rawls tracks three stages that individuals pass through in attaining moral
maturity. These stages chart a gradual widening of perspective, as individuals learn to
take other people’s perspective into account alongside their own self-interested claims,
a process that finds its realisation in a fully developed sense of justice.

The first of these three stages is that of the morality of authority. This
corresponds with the stage in a child’s development when they will follow the rules
enforced by their parents, rules expressing notions of right and wrong conduct,
without necessarily being able to conceive of the reasoning behind these prohibitions.
Within the context of a loving family, the child’s recognition of the love and support of
her parents allows her both to develop a sense of her own self-worth, and also
encourages her to adhere to the authority of her parents. Through their example, in
observing, encouraging and explaining rules of conduct, the child comes to accept the
principles as both a beneficial and desirable component of collective life. Therefore, the
initial building blocks of a sense of justice are to be found in relationships of love, trust
and affection, where guidance is provided by example and not through inducement by
threat or promise of reward.

⁴ Ibid. p.454.
The subsequent stage of moral development involves a widening of the scope of the moral horizons beyond that of the family into a range of associations within society. As a person comes into contact with a variety of people through different situations within the broader community, they must begin to anticipate the needs of others and to perceive competing points of view. Through an understanding of the roles of others within various associations, a sense of the duties and obligations appropriate to different social situations is inculcated, as is a sense of the consequence of failure to comply with such obligations. Therefore, feelings of guilt begin to be aroused by a failure to comply with social duties and corresponding feelings of disappointment are motivated when others fall short. But, in a situation where such expectations are consistently met, a sense of trust and fellow feeling develops that helps to strengthen and sustain not just the individual associations, but also the broader community as a whole.

At this stage, the behaviour of an individual may well fall into line with other-regarding principles of justice, however that person’s motivation is still likely to be shaped by their participation and contact with others through their particular associations:

It would seem that while the individual understands the principles of justice, his motive for complying with them, for some time at least, springs largely from his ties of friendship and fellow feeling for others, and his concern for the approbation of the wider society.\(^5\)

Therefore, the final stage involves a further broadening of perspective from those with whom the individual has immediate contact and concern to the shape and structure of society as a whole:

As the situation dictates, we take up the perspective of a constitutional convention, or of a legislature, or whatever. Eventually one achieves a mastery of these principles and understands the values they secure and the way in which they are to everyone’s advantage. Now this leads to an acceptance of these principles by a third psychological law. This law states that once the

\(^5\) Ibid. p.473.
attitudes of love and trust, and of friendly feelings and mutual confidence, have been generated in accordance with the two preceding psychological laws, then the recognition that we and those for whom we care are the beneficiaries of an established and enduring just institution tends to engender in us the corresponding sense of justice.\(^6\)

The concern for specific others, for those we care for, develops to become a concern for generalised others, expressed as a concern for moral right and just institutions.

This development is reflective of a deeper underlying principle of moral psychology – the principle of reciprocity:

we acquire attachments to persons and institutions according to how we perceive our good to be affected by them. The basic idea is one of reciprocity, a tendency to answer in kind. Now this tendency is a deep psychological fact. Without it our nature would be very different and fruitful social cooperation fragile if not impossible. For surely a rational person is not indifferent to things that significantly affect his good; and supposing that he develops some attitude toward them, he acquires either a new attachment or a new aversion. If we answered love with hate, or came to dislike those who acted fairly towards us, or were averse to activities that furthered our good, a community would soon dissolve. Beings with a different psychology either have never existed or must soon have disappeared in the course of evolution. A capacity for a sense of justice built up by responses in kind would appear to be a condition of human sociability. The most stable conceptions of justice are presumably those for which the corresponding sense of justice is most firmly based on these tendencies.\(^7\)

Our desire to ensure that we repay in kind is therefore fundamental to the development of our sense of justice, hence just institutions are likely to engender a sense of gratitude for the good they provide and a desire to maintain and strengthen

\(^6\) Ibid. p.473-4.

\(^7\) Ibid. p.494-5.
these institutions. On the basis of such gratitude, Rawls is able to suggest that a just society will be capable of generating attitudes within its citizens that will incline them towards supporting its continued functioning.

There are two things worth noting about this account of the development of the sense of justice. The first is that it is not a transitional account of the psychological support for just institutions, as it presupposes a well-ordered society as its starting point. It aims to show that when individuals are treated in a fair manner they will seek to repay in kind and so will seek to support and maintain just institutions. Whether they will be similarly inclined towards justice in less favourable conditions is not considered. Secondly, such attitudes are not themselves sufficient to demonstrate the stability of the Rawlsian well-ordered society: Rawls not only needs to demonstrate that citizens will have an inclination towards just institutions, but that they will be prepared to subordinate their own ends and interests to the demands placed upon them by just institutions. In order to do this, Rawls needs to provide an account of why the reasons favouring just institutions will be sufficient to defeat competing reasons in favour of an individual’s prioritised ends.

Both of these potential problems are assuaged by his suggestion of a congruence between justice and a human good that is affirmative of our natural aims and ends. The ability to prove this would provide good reason both for establishing just institutions and for the belief that individual citizens will consistently abide by their requirements.

### 3.2.2 The congruence argument

In order to demonstrate that people within the well-ordered society would regularly choose to follow the inclinations inculcated by a developed sense of justice, Rawls attempts to show that any rational plan of life a moral agent might choose to pursue within such a society would include as a central component the affirmation of just principles. That is, he tries to show that our good is best served by a certain account of rationality, which will recognise the central role in the realisation of our nature played by accordance with our sense of justice.

This argument relies initially upon Rawls’ formal definition of a person’s good as according with a certain account of rationality. This account proceeds from the idea
that each person has a rational plan of life defined by a consistent set of chosen ends, the ability to rank and prioritise these ends and the ability to choose effective means to their most complete realisation. Yet, beyond this, Rawls also introduces an element of idealisation into his account of a person’s good, by suggesting that a rational plan is one that would be chosen in a situation of full knowledge:

   It is the plan that would be decided upon as the outcome of careful reflection in which the agent reviewed, in the light of all the relevant facts, what it would be like to carry out these plans and thereby ascertained the course of action that would best realize his more fundamental desires.⁸

This situation is referred to as deliberative rationality, and it forms the individual counterpart to the collective original position: where the latter is an ideal choice situation designed to exemplify the most important considerations in questions of justice, the former seeks to shed light on questions pertaining to individual good. As with the original position, the suggestion is not that this level of reasoning is actually accessible to us, but rather that it can help to illustrate the objective standards shared by all rational plans of life.

A further key component of the congruence argument is the Aristotelian Principle, which states that “other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater its complexity.”⁹ This proposed psychological law suggests that there is a general tendency in human behaviour to find greater satisfaction from complex over simple activities, from exercising refined over simple sensibilities. This is not intended as an absolute and determinate principle but is instead suggestive that the rational plan of life most individuals would choose under conditions of deliberative rationality would give some room to the development or fulfilment of these more complex impulses. Equally, for Rawls, part of the reason for the inclusion of such features within an individual’s rational life plan is the inherent satisfaction we find in the expression of these aspects of our nature.

⁸ Ibid. p.417.

⁹ Ibid. p.426.
The claim behind the congruence argument is that such psychological features provide an intrinsic link between our own individual judgements of the good and a desire to act upon the principles of justice derived from the original position. The claim is that the nature of a free and equal moral agent will include a desire to develop and act upon a rational plan of life that is consistent with this nature. For a free and equal moral agent, a key part of any such a plan of life will be the desire to act upon the principles chosen in the original position, given that this situation expresses a choice procedure that embodies the appropriate moral conditions for such a choice – conditions of fairness, equality and impartiality. This desire would find psychological support from the inclinations provided by the sense of justice, thus the desire of individuals to express their nature as free and equal moral agents will entail that they act upon their sense of justice. This will be complemented by the Aristotelian Principle, which suggests that the desire for moral agents to realise their nature forms an intrinsic part of each individual’s good. Yet, the endorsement of the sense of justice requires a recognition that the content of justice is such that it must play the role of a supremely regulative value, one that must be accorded priority in each individual’s rational plan of life. Hence, Rawls suggests that the realisation of our nature as free and equal moral agents is best achieved by accepting justice as a ‘highest-order’ end. In this way, each individual citizen’s autonomous pursuit of their own individual good accords perfectly with the overall social realisation of just institutions.

3.2.3 Political Liberalism & the rejection of the congruence argument

In regard to the concerns of this chapter, the important thing to note is that, if successful, the congruence argument would provide powerful motivational support for the general acceptance of just social institutions. But, beyond this, the argument that Rawls advances within *A Theory of Justice* would appear to suggest that it is acceptable to substitute the ideal judgements of the original position and of deliberative rationality for the actual judgements people hold, giving priority to the former over the latter as the most appropriate expression of our nature. The congruence argument could be seen, therefore, to provide a compelling (in the true sense of the word) case for the establishment of a particular institutional schema.
Yet, Rawls was himself unhappy with this implication of the congruence argument, believing that it presumed too much:

A modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines. No one of these doctrines is affirmed by citizens generally. Nor should one expect that in the foreseeable future one of them, or some other reasonable doctrine, will ever be affirmed by all, or nearly all, citizens.\(^\text{10}\)

The presumption that the application of an idealised reasoning process such as deliberative rationality would lead any citizen to accept one particular account of individual fulfilment (as the congruence argument would require) cannot, therefore, be endorsed. The diversity of viewpoints and perspectives cannot be written off as purely the result of defective individual reasoning, but is instead “the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime.”\(^\text{11}\) So, for liberal institutions to be stable, each individual citizen must be able to find supporting reasons ordinarily accessible to her from her own particular perspective. Any justification reached in abstraction must still hold sufficiently for it to be capable of being endorsed by those holding a wide range of perspectives and evaluatory standards. But this also means that any theoretical approach that proposes a singular account of the realisation of human nature, such as that suggested within the congruence argument, would likely require illiberal coercive practices in order to maintain itself.

It is for this reason that, in *Political Liberalism*, Rawls seeks to articulate an account of liberal institutions that does not require Kantian claims about moral personhood for its support. The account he develops instead holds out the possibility of a stable and just order over time based upon shared political reasons that may be endorsed by holders of a varied range of reasonable comprehensive outlooks. So, instead of a substitution of ideal for actual reasoning, Rawls instead looks for

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\(^{10}\) Rawls, *Political*. p.xvi.

\(^{11}\) Ibid.
principles drawn from ideal reasoning that could still be acceptable to a range of varied evaluatory frameworks. The resulting agreement over the form of social institutions would be based upon an overlapping consensus of shared public reasons, understood as freestanding from the various reasonable comprehensive doctrines that people hold. Each specific reasonable comprehensive doctrine would be capable of providing its holder with good reasons to affirm and act upon their sense of justice, but there would not be a single unified account of what these reasons are (as Rawls had previously held), rather each individual doctrine will supply reasons consistent with its wider outlook.

3.2.4 A transitional account of moral psychology

The shift outlined above, from a just order based upon a the intrinsic good of justice to one based upon an overlapping consensus of reasonable comprehensive doctrines, raises a further significant issue: is it really realistic to expect that such a consensus can be achieved and maintained in liberal societies that are characterised by a wide range of radically different perspectives? The response Rawls gives is to outline a transitional account of how such a consensus might be achieved.

The initial basis for such a consensus would be the acceptance of liberal principles not for their own sake, but rather as a practical means to avoid civil strife. That is, in the manner that the liberal notion of tolerance took root as a means to ease sectarian conflicts arising subsequent to the Reformation, so a general acquiescence to certain liberal principles of justice may prove to be of practical benefit to parties with different outlooks. The initial acceptance of a basic constitutional regime of rights under the rule of law may only be for pragmatic reasons, as it is preferable to ongoing conflict between those who hold competing doctrines. Yet, since most comprehensive doctrines are not truly comprehensive, they may still leave enough scope for their adherents to loosely accept liberal principles. Rawls argues that once such an order is accepted, individuals who live under it may begin to amend their viewpoints to accommodate it:

It is possible for citizens first to appreciate the good those principles accomplish both for themselves and those they care for, as well as for society at
large, and then to affirm them on this basis. Should an incompatibility later be recognized between the principles of justice and their wider doctrines, then they might very well adjust or revise these doctrines rather than reject those principles.¹²

Over time, therefore, initially strategic commitment to constitutional principles is likely to strengthen into a loyalty that finds support from an amended comprehensive doctrine: “simple pluralism moves towards reasonable pluralism and constitutional consensus is achieved.”¹³

But constitutional consensus is not the same as an overlapping consensus. A constitutional consensus remains motivated by group or self-interest, rather than a deep commitment to the authority of the institutional forms. An overlapping consensus, in contrast, will consider both the agreement and the reasons behind it in explicitly moral terms. For each individual, there will be reasons within their own comprehensive doctrine to support the resulting social order, inclusive of “conceptions of society and of citizens as persons, as well as principles of justice, and an account of the political virtues through which those principles are embodied in human character and expressed in public life.”¹⁴

As a result, an overlapping consensus will be both deeper and broader than a constitutional consensus. The depth of an overlapping consensus will be encouraged by the need to appeal to other groups in public discourse. Seeking to justify proposals to others requires consideration of the types of reasons that would be acceptable or unacceptable to them and so is likely, Rawls suggests, to aid the development of political conceptions of justice. Meanwhile, issues beyond the scope of a procedural constitutional consensus will come to be seen as within the scope of public consideration due to their impact upon the ability to secure basic rights. Assuring the ability for individuals to exercise freedom of thought and conscience, or ensuring that their basic needs are fulfilled are issues that will extend the reach of a political consensus.

¹² Ibid. p.160.
¹³ Ibid. p.164.
¹⁴ Ibid. p.147.
conception beyond merely covering constitutional essentials. Hence, in order to be stable, an overlapping consensus must include an agreement on how to coherently and consistently handle such issues. The additional depth and breadth of an overlapping consensus will therefore narrow the range of conceptions of social order that will be able to adequately cope with its requirements. Although not suggesting that it will be a uniquely favoured solution, Rawls does indicate that justice as fairness would be able to be the focus of such a stable overlapping consensus.

It can be seen that, in both the initial agreement structured around a *modus vivendi* and in the progression to an overlapping consensus, there is an interplay between practical and normative considerations. The initial agreement to liberal principles may be acceded to for the simple reason that, for all parties, it is slightly preferred to the ongoing strife of a situation in which there is a failure to cooperate – even if less preferable to their favoured solution, that their own comprehensive doctrine informs the overall settlement. Yet, the fact that the agreed upon constitution treats each individual in a fair and respectful manner may prove to be something the citizenry come to get used to, and even depend upon. Hence, the fair operation of institutions may begin to inculcate within the citizenry an attitude supportive of the idea that all are due respect as free and equal citizens. If this is then carried forward into consideration of further practical issues, such as the most appropriate social and economic institutions for cooperative life to be based upon, then citizens may come to appreciate the ties that bind them together in a different manner. Rather than making demands that others comply with their own system of values, citizens will come to appreciate the need for a common framework of fair institutions that all can agree to be bound by.

As Samuel Freeman notes, this makes the psychological principle of reciprocity, and the sense of justice it engenders, an essential component of the feasibility and stability of Rawls’ theory:

> Overlapping consensus is in effect a hypothesis about the kinds of conceptions of the good that will be fostered by a well-ordered society. It extends the reasoning behind the principles of reciprocity underlying development of the sense of justice from *Theory* (Chap. 8) so that it applies to reasonable
comprehensive doctrines and individuals’ conceptions of the good. The crucial assumption is that, as individuals tend to develop a desire to support just institutions that benefit them and those they care for, so too will they incorporate this desire, in some form, into their conception of the good. This means that, from among the many possible religious, philosophical, and ethical doctrines, those that will gain adherents and thrive in a well-ordered society will be reasonable and will endorse (or at least will be compatible with) the public principles of justice, each for their own specific reasons. Unreasonable, irrational, or mad doctrines will not muster sufficient support to gain sizable adherence.\textsuperscript{15}

One of the claims of Political Liberalism, then, is that it is plausible to imagine a transition from a situation of antagonistic pluralism to agreement upon a shared political conception of justice to order society. The basis behind this transition is an account of moral psychology that suggests agreement to basic liberal institutions will create conditions conducive to the development of a strong sense of justice, and that each individual will be able to find reasons to comply with their sense of justice. If we are considering the feasibility of this account of justice, it is worth examining these claims in more detail.

3.3 Challenges to Rawls’ transitional account

The transitional account outlined above draws attention to a set of dynamics internal to the project of realising liberal egalitarian institutions. This is premised upon three basic claims:

i) Liberal institutions provide a coherent practical solution to the problem of how those with competing ends can live together as free and equal citizens;

ii) People living under liberal institutions will, over time, acquire attitudes supportive of a political conception of justice;

iii) When confident that others will do likewise, people will consistently comply with the demands of a political conception of justice.

Yet, as Rawls himself notes, we would be wrong to assume that liberal institutions – or even wholly justified liberal institutions – can only take one form.\textsuperscript{16} Thus, while they may provide a practical solution to the problem of how those with competing ends may live fairly together, this practical aim may be pursued in a variety of ways. It seems fair to assume that some of these ways may be more conducive to the sorts of attitudes required to engender a stable commitment to just institutions. Thus a key question for a transitional account of justice becomes that of assessing the extent that liberal institutions really will be capable of nurturing the sorts of values that will sustain and deepen commitments to fairness. Yet, beyond this, a further question is about the particular forms of liberal institution that are most conducive to the nurturing of such values.

To put it another way, the account Rawls advanced seems to postulate the existence of a centripetal dynamic within liberal societies that draws citizens towards an acceptance of liberal institutions that affirm certain core liberal values, such as the status of citizens as free and equal and the purpose of society as a cooperative enterprise for mutual benefit. But it also seems reasonable to suppose that such a dynamic does not go unobstructed or uninterrupted. Thus, there may also be opposing centrifugal dynamics that might disrupt the transition towards a just social order. I now provide an exploration of this disruptive potential. I begin (§3.3.1) by assessing evidence that might support or deny the challenge that the operation of liberal institutions may actually undermine the values upon which the ongoing viability of the liberal project depends. This charge would suggest that the centripetal force within liberal institutions is insufficiently strong for a functioning sense of justice to develop, thereby rendering those institutions unstable.

Having disputed the above charge, I then (§3.3.2) examine the possibility that, even though people may acquire a functioning sense of justice, they may regard some of the requirements of a political conception of justice as utopian, beyond the scope of what can realistically be expected. Consideration of the structure and motivation

\textsuperscript{16} “[W]e need not decide between a property-owning democracy and a liberal socialist regime. In each case, when their institutions work as described, the principles of justice can be realized.” Rawls. \textit{Justice}. p. 138.
behind functioning norms will demonstrate that the widespread possession of a sense of justice among the citizenry need not necessarily entail that a society structured around a fully effective political conception of justice. These reflections will help to inform a specification of the most urgent areas of focus for a transitional nonideal theory to consider.

3.3.1 Is liberalism self-defeating?

One consistent and persistent criticism of liberal societies, and of liberal ideas as a whole, is that they can promote an excessive individualism that is harmful to social functioning. This criticism has been advanced in many forms, from debates over “family values” in mainstream political discourse,\(^\text{17}\) to critiques of excessive individualism from those aligned with the communitarian movement,\(^\text{18}\) to analyses of a decline in “social capital”.\(^\text{19}\) Although differing in their scope and general purpose, typically, one of the main claims of such criticisms is that the operation of individualistic liberal institutions, are not only corrosive of the virtues necessary for the maintenance of social order, but also weaken and undermine the traditional institutions and social forms that help to promote and inculcate such virtues. In this way, they make a claim for the social grounding of the values and attitudes necessary

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\(^{17}\) For instance, in their platforms for the 2004 Presidential elections, both the Republican and Democratic party make strong claims about the importance of the family:

“PROTECTING OUR FAMILIES… Families are the cornerstone of our culture — the building blocks of a strong society… We also know that family breakdown makes America less stable. To create a sturdy foundation for the strength and success of our citizens and our nation, Republicans support policies that promote strong families.” (Republican);

“STRONG, HEALTHY FAMILIES: Family is the center of everyday American life… Strong families, blessed with opportunity, guided by faith, and filled with dreams are the heart of a strong America.” (Democrat)

Available via The American Presidency Project. John Woolley and Gerhard Peters (eds.).
http://www.presidency.ucsb.edu/platforms.php (accessed 16/06/13)

\(^{18}\) For example, Amitai Etzioni. *The Spirit of Community: The reinvention of American society.* (Touchstone: New York: 1993), in which Etzioni takes issue with the “elevation of the unbridled pursuit of self-interest and greed to the level of social virtue” (p.24).

for vibrant communities, a strong civic culture and the sorts of generalised trust required to sustain a healthy order within society.\textsuperscript{20}

Such critiques could easily be grouped with those recently categorised by Samuel Bowles as advancing a “parasitic liberalism thesis”.\textsuperscript{21} The underlying basis for this thesis is that liberal institutions are dependent upon certain social norms and attitudes for their continued functioning. Even within market-based interactions, where positive outcomes may be generated without the need for explicitly virtuous behaviour, major problems would result from an absence of attitudes such as trust, reciprocity and a willingness to abide by rules. The parasitic liberalism thesis is the claim that liberalism cannot itself supply such virtues, but must instead rely upon traditional social forms such as the family, religion or community to provide them. In turn, the ongoing operation of liberal institutions may work to undermine these traditional social forms. Of particular attention in the examination of the interaction between institutions and individual motivations is the effect of market institutions upon their participants. To a large degree, the parasitic liberalism thesis is, in fact, based on the claim that markets undermine the institutional basis required for virtuous behaviour.

If such a thesis were true, in the long term liberal society would not be stable in the Rawlsian sense of the term, as it would be unable to “generate its own supportive moral attitudes.”\textsuperscript{22} In his attempt to address such issues, if we recall the account of moral development outlined in §3.2.1, Rawls actually may appear to give some support to elements of the parasitic liberalism thesis. For, his account seems highly dependent upon the institution of the family and upon private or informal associations, therefore demonstrating the reliance of liberalism upon social collectives. So, if the Rawlsian view of moral psychology is to be successful in demonstrating the feasibility of just

\textsuperscript{20} For an excellent summary of some of the key claims of such positions in regard to moral psychology, see Elliot Turiel. The Culture of Morality: Social development, context and conflict. (Cambridge UP: Cambridge: 2002). Ch.s 2 & 3.

\textsuperscript{21} Bowles. ‘Liberal Society’. Bowles himself mentions Edmund Burke, Alexis de Tocqueville, Joseph Schumpeter, Friedrich Hayek, and Jürgen Habermas as developing themes consistent with this thesis.

\textsuperscript{22} Rawls. Theory. p.399.
liberal institutions, some consideration must be given to whether the pursuit of individual interests does pose a particular threat to the kinds of attitudes and values upon which the long-term stability of such institutions depends.

Surveying evidence from a range of sources, Bowles does find some support for the parasitic liberalism thesis. For instance, in one experiment, researchers examined the influence of fines upon late collection of children from child day-care centres in Haifa. After an initial observation period, in six of the ten participating centres, a fine was introduced for any parent arriving more than ten minutes late to collect their child. It might be expected that the effect of such a fine would be to incentivise parents to arrive promptly, and thus reduce lateness, but this was not the observed consequence. Instead, in comparison with the rates of tardiness in both the initial observation period and the remaining four day-care centres (used as a control group), late collection surged. After three months, the fine was revoked, yet the levels of late collection did not respond, remaining well above their pre-fine levels.

One plausible explanation of this result is to suggest that the introduction of a monetary incentive served to crowd out the other-regarding attitudes that had previously helped to order interactions between the centres and parents. Prior to the introduction of the fine, parents would possess a sense of duty that they should not take advantage of the day-care centre and its staff, and this would then motivate them to ensure they were not late. Yet, once a monetary aspect is introduced to the relationship, the dynamic is changed, with parents instead viewing additional time as a commodity that can be purchased via payment of the fine. Further to this, the fact that the withdrawal of the fine did not restore the previous equilibrium suggests that the motivational structure of the situation is changed completely by its framing in monetary terms, with the initial altruistic cooperative concern crowded out by market incentives.

Further evidence for the crowding out of ethical motivation by market incentives is found within the results of a study of responses to Dictator and Third-

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Party Punishment Games conducted within fifteen societies across the globe. One expectation might be that the presence of a third party onlooker within the latter game would induce higher allocations from dictators (in comparison with a straight Dictator Game) as the potential implementation of a fine would provide an additional incentive to supplement the fair-mindedness of players. Yet results did not bear this expectation out: in only two of the fifteen populations were the dictator’s offers significantly higher in the Third-Party Punishment Game compared with the Dictator game; in four of the fifteen populations they were significantly lower. One potential explanation for this result would be that the presence of the onlooker within the Third-Party Punishment Game changes the dynamic of the interaction from a social interaction in which ethical motives are appropriate to an economic interaction in which incentives and disincentives are the principle motivation, thus crowding out ethical reasoning.

Support for this interpretation can be seen by considering the effects of religious allegiance within the sample. Within the Dictator Game, those dictators aligned with either Islam or Christianity provided allocations that were 23 percent higher than those who were not affiliated with a major world religion. Yet, a parallel comparison within the Third-Party Punishment Game showed that those same religious individuals were no more generous than non-affiliated participants once the context was altered to one based upon monetary incentives. This finding appears to lend support to the parasitic liberalism thesis, as the introduction of a market-like scenario is accompanied by a reduction in the apparent level of ethical behaviour.


The Third-Party Punishment Game is a variation upon the Dictator Game. The Dictator Game involves an experimental subject (the dictator) being given an endowment of money by the experimenter, before being asked to allocate some, all, or none of it to a passive recipient. The game ends at this point with the respondent taking home the dictator’s offer and the dictator taking home the rest.

In the Third-Party Punishment Game an active onlooker is introduced into the situation. If the third party deems the dictator’s allocation to the recipient worthy of punishment, he or she may then pay (also from an endowment provided by the experimenter) to impose a monetary fine on the dictator. The game then ends: the dictator keeps the part of the endowment that was not allocated to the respondent minus any fine imposed by the third party, while the respondent keeps the amount allocated by the dictator. The third-party onlooker keeps the initial endowment minus any amount spent fining the dictator.
But the evidence from experimental economics is far from unanimous that markets exert a crowding effect upon ethical motivations. Indeed, a good deal of evidence seems to point in the opposite direction – that markets may also be capable of ‘crowding in’ ethical concerns. In a detailed study of responses to an Ultimatum Game, a direct correlation was found between levels of market exposure and the generosity of proposed splits of the endowment. What such a correlation suggests is “that markets induce a kind of generosity in the proposer or anticipation of fair-mindedness on the part of the respondent.”

Bowles finds further evidence of these positive effects – alongside a potential explanation – in the results of an experiment based upon a Public Goods with Punishment Game carried out in fifteen populations across the globe. Public Goods Games test willingness to contribute to a good shared with strangers, even at potential cost to the individual, given that they do not know how others will respond. The


In an Ultimatum Game, subjects are anonymously paired for a single interaction. One is the “proposer,” the other the “responder.” The proposer is provisionally awarded an endowment (known to the responder) that is to be divided between the two of them. The proposer then offers a particular split of this endowment. If the responder accepts, each get the specified share, and the game is over. If the responder rejects the offer, both get nothing and the game is over.

26 Bowles. ‘Liberal Society’. p.64.

27 Benedikt Herrmann et al., “Antisocial Punishment Across Societies,” Science 319 (2008) cited in Bowles. ‘Liberal Society’. This study’s subjects were university students from Boston (USA), Nottingham (UK), Copenhagen (Denmark), Bonn (Germany), Zurich, St. Gallen (both Switzerland), Minsk (Belarus), Dnipropetrovs’k (Ukraine), Samara (Russia), Athens (Greece), Istanbul (Turkey), Riyadh (Saudi Arabia), Muscat (Oman), Seoul (S. Korea), Chengdu (China), and Melbourne (Australia).

In a Public Goods Game the players are each awarded an endowment and given the opportunity anonymously to contribute some, all, or none of this to a common pot (the public good), which is then doubled or tripled and distributed in equal parts to the players, irrespective of the amounts they contributed. The individual in such a game maximizes payoffs by contributing nothing irrespective of what the others do, however, for the group as a whole, payoffs are maximized if everyone contributes their entire endowment.

The punishment modification of the game in this study was that after all players had made their allocation to the common pot, each was provided with information about the contributions of each of the other players, and given the opportunity to pay (reduce one’s own payoff) in order to reduce the payoff of any other specific member of the group. This procedure was followed on each of the rounds of the game.
punishment addition in this instance also tests the willingness to punish free-riders (even at individual expense) and the response of subjects to punishment. The study found that the differences in the results between subject pools could largely be explained by the manner in which the punishment mechanism was used: in a number of the subject pools, punishment was not simply directed at those thought to be free-riding, but also at subjects who had contributed generously to the common pool.

A feasible explanation for this kind of ‘anti-social punishment’ is that it may be used by the punished in a vindictive manner as a means to retaliate against those who had previously punished them. An important observed feature of such anti-social punishment was that it showed a strong inverse correlation with societal measures for the rule of law, democracy, individualism, and social equality, with the highest levels of such punishment occurring in Muscat, Athens, Riyadh, Samara and Minsk. In contrast, in those societies with the highest scores for such societal measures, the response from punished subjects in future rounds was an increased contribution rather than anti-social punishment. Hence, over the course of a number of rounds of play cooperation was ensured and collective payoffs were maximised, whereas the employment of reactive anti-social punishment led to lower returns for all participants.

Bowles suggests that the reasons for these differing reactions stem from alternate views of participants about the legitimacy of the acts of punishment. For those in liberal societies, it is not unusual for the establishment and maintenance of a moral order to be “entrusted to individuals who are unrelated and at least initially unknown to those whom they teach, police, and judge.” Therefore, even when a complete stranger administers a punishment for lack of contribution, this is nonetheless still experienced as legitimate and accompanied by feelings of shame that spur additional contributions in future rounds of play. Alternately, in societies where traditional orders structure much of moral life, specific persons and particular group structures – such as kin or religious community – may be recognised as the sole source of legitimate moral authority. As a result, punishment for lack of contribution may be taken as a slight or an insult, and so likely to be met with an angry response.

This hypothesis casts serious doubt upon the parasitic liberalism thesis, as the societies that were more market-oriented and individualistic were also the societies in which other-regarding cooperation was most easily established. So, it would appear possible that, rather than undermining the attitudes required for moral behaviour, liberal institutions such as the rule of law are actually capable of creating conditions in which cooperation between strangers is more likely. Indeed, even the potential for market incentives to crowd out ethical motivation seems to be offset by the positive effects of other liberal institutions. Contrary to the claims of the parasitic liberalism thesis, an alternative perspective would suggest that the spread of individualist market-based interaction is highly beneficial to establishing conditions in which universal norms become possible. As Gerald Gaus notes, “[o]ne of Hayek’s great insights was that the expansion of the market order to constitute a global order induces moral convergence on basic norms of cooperation among strangers.” The very functioning of market societies seems to require sophisticated norms to regulate appropriate behaviour and ensure trust:

In order to exist, modern, industrial, urban centers must have developed norms (behaviors and expectations) to deal effectively with anonymous transactions, and allow people to cooperate in a wide variety of contexts. Market societies are filled with opportunities to ‘cheat’, such that, if most people took advantage of these loopholes, our systems would rapidly crumble. We think these systems persist because people share sets of re-enforcing norms about how to behave in different contexts, what is ‘fair’ in different contexts, and what to punish.

\[29\] This perspective accords with the ‘doux-commerce’ thesis that Albert Hirschman finds present in the work of eighteenth century writers such as Montesquieu, Paine, Hume and Adam Smith. See Hirschman. ‘Rival.’ pp. 1464-1466.

\[30\] Gaus. Order. p.471.

This would seem to lend credence to the account of moral psychology given by Rawls. As well as providing practical solutions to problems of coordination and cooperation between those committed to competing ends, the operation of liberal institutions helps to engender norms of fairness supportive of cooperative endeavour. The importance of background social structures is not in the transmission of values, but rather in providing a secure and supportive background from which each individual is able to begin to make judgements about the social world in which they belong.

Although this may refute the main claim of the parasitic liberalism thesis, that liberalism must rely on traditional social structures for the transmission of the values necessary for its support, there does appear to be a danger of succumbing to an equally one-sided opposing view, simply seeking the extension of individual rights or markets without consideration of their long-term effects. As Bowles cautions, the empirical evidence “is hardly an endorsement of laissez faire” as it clearly demonstrates the potential for market incentives to crowd out positive virtues. What makes liberal society so effective, and what ultimately creates a thriving civic culture, is the degree to which liberal institutions “can protect citizens from worst-case outcomes, whether these be personal injury, loss of property, or other calamities.” The reduction of threat lessens the need for guardedness, opening the way for trusting cooperative endeavours between strangers.

This does, however, reveal a degree of tension within the operation of liberal institutions. Although the implementation of an order based upon individual rights and market exchange may help to encourage a convergence upon a shared set of norms, helping to reinforce the rule of law, it does also create a new set of potential vulnerabilities. There are fresh calamities that markets themselves expose individuals to: poverty, financial ruin, inability to meet basic needs. Liberal society, therefore, cannot simply be market society, but must also provide its citizens with some degree of protection from markets. Where this is not provided, there may be a resurgence in

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33 Ibid. p.70.
guardedness and a decline in trust, which may in turn undermine the potential for the ongoing extension and strengthening of liberal institutions.

So, although liberalism is certainly capable of generating its own support, there is no simple unidirectional dynamic at work. Instead there is a particular tension between liberal societies and their employment of market institutions. A key question, then, is how to realise the positive effects of markets without incurring their negative potential to undermine support for other liberal institutions. As a result, neither a simplistic wholesale rejection nor a unanimous embrace of markets seems most appropriate. Alternately, there is a need for a careful examination of individual instances and applications of market employment to assess whether, all things considered, they have beneficial effects, in terms not just of their practical outcomes, but also of their normative value and their affect upon the attitudes and behaviour of participants within them. What the preceding analysis does suggest is that it is entirely possible within a market society for people to acquire the full and functioning sense of justice that a well-ordered society requires – however this should certainly not be regarded as a simple formality.

3.3.2 The scope of political agency

Even if, as argued above, it is entirely possible that citizens within an individualistic market society will still be able to develop a sense of justice that supports attitudes of reciprocal concern, this will not necessarily be sufficient for the institution with the type of egalitarian principles that Rawls outlines. Although individual citizens may be inclined towards such principles and may believe that they would embody a fair settlement for the organisation of society – one that effectively respects all as free and equal citizens – unless they are also convinced that this account is feasible it will remain a chimera. Or, to put it another way, is an individual’s sense of justice likely to be effective if the inclinations and attitudes it supplies are seen as demands that are beyond the bounds of the collective political agency of the citizenry as a whole?

If we consider the practical question of how particular rules and norms are accepted as authoritative, there is some evidence to support the challenge raised above. Drawing upon the work of Cristina Bicchieri, Gerald Gaus has suggested the following as modelling the conditions in which a social norm will be effective:
Suppose we have group G divided into subgroups g1 and g2. We can say that social rule L exists in G if g1 is a sufficiently large proportion of G such that for each individual (call such a person Betty) in g1:

1. Betty recognizes L as a rule that applies to C circumstances;
2. Betty typically has a motivating reason to conform to L rather than act simply on her own goals in C circumstances on the condition that
   (a) Betty believes that a sufficiently large subset of G conforms to L in C;
   (b1) Betty believes that a sufficiently large subset of G expects Betty to conform to L in circumstances C or (b2) Betty believes that a sufficiently large subset of G expects Betty to conform to L in C, prefers that Betty does so, and will sanction Betty for noncompliance.34

This model suggests that, for a rule to be effective, it is not only necessary for an individual to recognise its normative authority and the normative expectations advanced by others, but also the practical consideration of the expected conformity of others to that rule.

This interpretation is supported by some experimental evidence. For instance, consider the conclusion of a recent study of responses to a Dictator Game in which attempts were made to shape players’ expectations about the likely behaviour and expectations of others:

Our data provide compelling evidence that empirical expectations regarding other people’s behaviors well-predict one’s own decisions. Expectations regarding what other people think one ought to do can also predict decisions, but our results suggest this is true only to the extent that such expectations are in line with the choices one believes others would actually make. When normative and empirical expectations are inconsistent, our data indicate that

people do what they think others would do in that same situation, even when they believe doing so would not be met with approval.\textsuperscript{35} These results support the claim made by Gaus that normative expectations on their own are unlikely to be sufficient to motivate compliance with a rule absent a belief that the rule will be generally accepted and acted upon by others. Indeed, Rawls himself gives credence to this view as a central component of the attitudes that make a just society possible: one assumed feature of citizens is their “readiness to propose fair terms of cooperation it is reasonable to expect others to endorse, as well as their willingness to abide by these terms provided others can be relied on to do likewise.”\textsuperscript{36} This underscores once again the importance of reciprocity in the enactment of principles of justice. As Gaus suggests, “deontic reasoning crucially involves reciprocity within the structure of obligation itself”, making one of the core tasks of any examination of social rules that of “identify[ing] reciprocal obligations”.\textsuperscript{37} One consequence of this view, however, is that it may be possible for a rule to be normatively convincing to a large section of a society, yet for it not to be instituted as a rule to order social life. As Gaus goes on to note, it must be concluded that there “is no practice of justice in groups where a high percentage of the group fails to act on the rules of justice, even if they all endorse the rules.”\textsuperscript{38} Any transitional theory of justice that aspires to widespread conformity with rules that are currently not acted upon must, then, attempt to understand the potential reasons why normative

\textsuperscript{35} Cristina Bicchieri and Erte Xiao. ‘Do the Right Thing: But only if others do so’. \textit{Journal of Behavioral Decision Making}. Vol. 22 (2009), p.202. This study was based upon a basic Dictator Game (see n.25) except for the fact that, prior to play, subjects were presented with statements about behaviour in a previous experiment using the game. These statements summarised the majority of the dictators’ actual choices (i.e., empirical information) or/ and the majority beliefs about what ought to be done (i.e., normative information) in the previous session, with the aim of shaping subjects’ expectations as to whether the actions and beliefs of others were likely to be fair or selfish. A similar finding is reported in Henrich & Smith ‘Comparative Experimental Evidence’: “the primary indicator of what a subject will do is what the subject thinks the rest of the group will do.” p.153.

\textsuperscript{36} Rawls. \textit{Political}. p.81. Emphasis added.

\textsuperscript{37} Gaus. \textit{Order}. p.171.

\textsuperscript{38} Ibid. p.171-2.
acceptance of a particular rule or principle may fail to translate into social coordination upon that rule.

Such an impasse may be the result of a belief that a particular principle elicits demands that cannot be realistically fulfilled. Imagine, for instance, if the kinds of attitudes that would be expressive of an individual’s sense of justice were considered, by that individual herself, to make demands upon other citizens or the political process as a whole that were impossible to achieve due to, for instance, facts about human nature. On the account of moral motivation described above, it seems unlikely that she would wholeheartedly seek to promote the cause of justice in such circumstances. So the possession of a full and functioning sense of justice will be insufficient for the achievement of just institutions if it is not allied to a belief that the requirements of justice are within the scope of political agency and so can be fully realised.

It is important to note that this is not simply a claim about the feasibility of theories of justice, but rather about the widespread perception of their aims and prescriptions. Whether a normative theory is truly feasible and whether it is considered feasible by a significant proportion of citizens are separate questions. What will surely be of concern, though, is if particular social structures or institutions serve to calcify relations between citizens in a manner that appears to render certain areas off-limits for reform. In regard to my overall concern with the ongoing functioning of markets, it may be the case that they come to naturalise relations of unequal status, or to suggest that individuals are always most likely to be self-serving in their actions. Thus, where the workings of markets, or of particular market-based interactions, could be seen to obviously narrow the perceived scope of political agency, this may cause problems for the liberal aim of respecting each individual citizen as a free and equal person.

3.4 The basis for a Rawlsian nonideal theory

The above discussions were intended to help specify the most urgent areas of focus for a transitional nonideal theory. Having explored the moral psychology involved in the Rawlsian scheme of justice, I now draw together the key components that can help us to understand how to approach the task of identifying targets for reform in nonideal circumstances.
One of the key points of the above discussion is to draw attention to the importance within the overall scheme of liberal institutions of the rule of law. By offering individuals protection from a range of threats and potentially harmful situations, it serves to increase the general levels of trust within a society. If the law can be relied on to deal fairly with individuals, they will be less likely to fall back upon traditional structures of authority, such as kin or religious affiliation, and will be more likely to act in a cooperative manner. Further to this, the above discussion has also provided evidence that expectations of other citizens’ compliance is a better indicator of behaviour than normative expectations. These two factors suggest that attempts to reform existing practices and institutions are more likely to win assent than proposals based upon wholly new practices or rules of cooperation.

While this does not provide decisive support for the normative superiority of fact-sensitive or practice-based views of justice, it does certainly indicate that such views may be more capable of winning assent. It also suggests that, even where social reforms are guided by a feasible ideal capable of securing stable support, these reforms cannot afford to ignore the motivational structures of current institutions, and how these may be altered by any proposed reform. This is not to argue that the status quo be afforded special normative significance, but rather that attempts to pursue a social ideal that will require a high level of trust and cooperative commitment must be careful to ensure that their efforts do not undermine effective existing rules or norms. As a result of this need, I propose that attempts at reform of social institutions must first take the effort to fully understand the current functioning of the target of reform. In particular, it must establish what the overall point and purpose of the practice or institution in question is, and hence why it is that its members or participants willingly support it.

Beyond this, it must also demonstrate two further elements before it will be able to provide clear guidance about the most desirable pathways to reform: firstly, it must assess the extent to which the current functioning of the practice or institution in question hinders potential progress towards a desired social ideal; secondly it must develop a clear idea of the role that the practice or institution would play within the fully-functioning ideal. Having this information, it may then be possible to propose
reforms that retain the essential point and purpose of a practice, so that it will retain the support of its participants, while seeking to overcome the elements within the current practice that hinder the attainment of the desired ideal.

With this in mind, it is possible to turn back to the main focus of this thesis: the assessment of the functioning of labour markets within nonideal conditions. The experimental evidence considered above suggested that there is still a significant possibility that markets may induce a crowding-out effect in which the introduction of material incentives undermines social values of cooperation. However, evidence also suggests that this does not pose a fundamental threat to the potential stability of liberal societies, demonstrating that they are not simply parasitic upon traditional sources of order and virtue. This means, then, that there is no clear and decisive overall pattern in regard to the effects upon the motivational structure of market participants. Instead, there is a clear need for attempts to assess and understand the likely effects of specific individual markets or market-based interactions. This should aim not simply to understand whether particular contexts would be more effectively regulated via economic incentives or left to non-market social interaction, but also to indicate how the implementation or operation of particular markets will impact upon the long-term evolution of societal norms and institutions.

Given this aim, of assessing the manner in which specific markets help to constitute individual attitudes and beliefs, one area of market interaction stands out as particularly apposite – the labour market. For, here the product is aspects of the individual themselves: their skills, their attitudes and their effort. Therefore, it is clear that the need to present these aspects of self within the marketplace may have a fundamental influence upon a person’s outlook: not simply in her attitudes towards herself, but also towards her fellow citizens and the character of their relations.

This suggests a further link with a theme from the above discussion. One key feature of Rawls’ theoretical approach was the aim of outlining a “realistically utopian” perspective that, although aspiring to a moral ordering of social institutions, remained within the bounds of realistic possibility. Yet, if any ideal comes to be viewed

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as more utopian than realistic, the norms that it recommends are unlikely to become socially operative.\textsuperscript{40} In relation to the role of markets, one strong line of thought has been to view the market as a quasi-natural self-regulating system that makes efficient and effective use of the natural inclinations of individuals. On an extreme version of this account, any attempt to intervene within markets, or to try to restructure market outcomes in the name of fairness, might be seen as illegitimate in that it will interfere with the “invisible hand” that guides market processes.\textsuperscript{41} Viewpoints that stress the importance of spontaneous order will regard assessments of the fairness of the outcomes of market interaction as having an inherently utopian character. As a result, widespread inequalities in status may come to be seen as being beyond the capabilities of political action to alter.\textsuperscript{42}

In addition, then, to assessing the effect markets have upon the values of participants, I will also draw attention to the manner in which they might shape individuals’ perceptions of their ability to effect change upon the social order. Where markets undermine the belief that equal standing of all citizens is even possible, and so leads to an acquiescence with widespread inequalities, this clearly causes a problem for anyone persuaded of the virtues of liberal egalitarian ideas. Identifying the occasions and mechanisms through which such an effect may occur will therefore help to demonstrate how practical reform might be put into the service of the attainment of a social ideal.

\textsuperscript{40} A contrasting approach would be that offered by thinkers such as G.A. Cohen, which would be to argue that discussions of norms such as justice ought not to be concerned with what is feasible. Such considerations already, in Cohen’s view, concede too much ground to practical concerns (incentives, Pareto-optimality etc.) and lead us away from the conceptual essence of the norms in question. See his Rescuing Justice and Equality. (London: Harvard UP: 2008). I will return to deal with this objection in more detail in Chapter 7.

\textsuperscript{41} The metaphor of the invisible hand is, of course, taken from Adam Smith, although it is doubtful he would agree with all of its invocations. The Wealth of Nations (Oxford: Oxford UP: 1993 [1776]). Book 4, Ch. 2.

\textsuperscript{42} We might think of Hayek’s representation of social justice as a “mirage” as being aligned to this sort of perspective. See F. Hayek. Law, Legislation and Liberty, Vol.2: The mirage of social justice (London: Routledge and Kegan Paul: 1976).
In all, then, the key area of focus for the remainder of this study is to provide an exploration of how market processes in relation to the distribution and employment of human labour may, over time, shape the preferences and attitudes of their participants. Three interrelated and overlapping questions will be pursued. Firstly, what is the purpose of markets in productive labour that gives their participants good reason to subscribe to their current functioning? Secondly, what role should labour markets play in the functioning of Rawls’ ideal of a well-ordered society? Finally, to what extent does the operation of labour markets block, hinder or distort the development of motivational attitudes that would be necessary for the attainment of this ideal, or serve to naturalise relations of dominance, subordinacy and unequal status in a manner that undermines efforts at reform? I will begin this task in the following chapter by considering a number of concerns relating to the shape, role and practical functions of labour markets.

3.5 Conclusion

I have argued that within Rawls’ work there is an account of how the transition to a just society might come about and of the moral psychology that provides support for this view. However, this sort of transition should not be regarded as an inevitable process, but rather one that may be blocked or diverted by other social dynamics. I have also made a case that market institutions should be of particular interest because of their ability to shape the attitudes and behaviour of their participants. In order to further develop this idea, the remainder of this study will turn attention to a consideration of the relationship between markets and employment practices.
Chapter 4: Work and Labour Markets

If we take the most basic definition of work, as an individual expending productive
effort for the benefit of herself or others, each individual will spend a large portion of
her life working and will consider her area of work to be a key determinant of her own
identity. There are many different forms or contexts in which this might occur: in paid
employment for a private firm, in conducting domestic work or providing care within
the home, completing socially necessary tasks as a volunteer or public sector employee,
learning and developing skills or talents necessary for future work. The centrality of
work to human lives means that the manner in which it is structured, and its tasks are
distributed throughout a society ought to be a key concern for any social or political
philosophy. But, responding to the concerns outlined in the previous chapter, beyond a
simple concern with the manner in which work is conducted, there is also the question
of the degree to which the structures through which work is organised are conducive
to the development and maintenance of the attitudes necessary for realising and
developing a just social order.

In this chapter, I develop an account of how the practice of work relates to the
markets in which it is situated, and of how the nature of working relationships become
shaped by those markets. In this sense, it relates closely to practice-based accounts of
justice, which state that principles of justice must take account of the institutional
forms they are supposed to regulate.1 Practice-based accounts begin from an
interpretation of the key features of the particular practice under consideration:

There are two main steps which belong to the ‘interpretive’ stage. First, the
interpreter seeks to determine the point and purpose of the institution in
question. What aims and goals is it intended to serve? Second, the interpreter
assumes the point of view of the participants in order to reconstruct what
reasons they might have for affirming its basic rules, procedures, and

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1 On practice based approaches to political philosophy, see Sangiovanni. ‘Justice’ and Aaron James.
‘Constructing Justice for Existing Practice: Rawls and the status quo.’ Philosophy & Public Affairs. Vol. 33,
no. 3 (2005), pp. 281-316.
standards. Why and how do the participants arrange their affairs to achieve the goals and aims of the institution? In achieving both tasks, the interpreter seeks to understand the institution (or set of institutions) as an integral whole, whose parts work together in realizing a unique point and purpose.  

I begin this task (§4.1) with a basic assessment of the function of work, attempting to assess the reasons people may have for pursuing productive activity. This then lead me (§4.2) to consider some of the different ways in which cooperative endeavour may be organised and maintained. Building upon these initial outlines, I will (§4.3) start to develop a more detailed account of some of the specific institutional forms around which work is organised, such as structured firms and the labour market. After considering these questions in the abstract, I then (§4.4) provide an examination of some practical historical developments within productive processes, as a means to try to understand how major organisational challenges have been addressed in order to explain why people may have reason to subscribe to current practices.

I argue that, from a practical perspective, there are good reasons for endorsing some form of labour market system, as it allows for the efficient coordination of productive efforts. However, I shall also draw attention to the inherently political nature of the working relationship between employers and employees, noting in particular the potential for significant power disparities to arise from the structure of the labour market. This becomes particularly worrying in the light of recent trends towards flexibility in working relationships, and the technological potential for closer scrutiny of an individual’s workplace endeavours. As a result, there are some significant normative challenges to be addressed when considering the manner in which work is organised.

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4.1 The function of work

What is work? Why do we feel the need to do it? What is its purpose and benefit for us? In the same manner that state of nature arguments can help to shed light upon the character of social and political cooperation, many economists have turned to the tale of Robinson Crusoe, washed up on the Island of Despair, as a means to inform an understanding of economic agency.\(^3\) Noting that the use of this example may say more about the profession of economics than of the typical behaviour of individual actors,\(^4\) we might still be tempted to ask what reason Crusoe would have for working?

In the novel that charts his progress, following his shipwreck, Crusoe’s initial labours are largely to meet his immediate needs and fulfil basic requirements: he hunts for food, seeks to build a secure shelter by digging out a cave, constructs basic furniture, salvages goods and materials from the wreck of the ship he had been on. His consumption or use of goods requires first that he has worked to catch, create or shape them. As his labours proceed, he begins to reflect upon his working processes, and to construct tools to assist in speeding up his work. Once this immediate habitation is secure, he explores the island for more varied resources and foodstuffs. He dries fruit in the sun to prepare a store for the wet season. He begins primitive farming by growing corn and rice, and by raising goats. Yet, throughout his initial time on the island, Crusoe notes that:

I was very seldom idle; but having regularly divided my time according to the several daily employments that were before me, such as, first, my duty to God, and the reading the Scriptures… Secondly, the going abroad with my gun for


\(^4\) Karl Marx was perhaps the first to critique the use of Crusoe in economic thinking as exemplifying the asocial approach of economics to labour. See *Capital: A critique of political economy – Volume I* (London: Lawrence & Wishart: 1954 [1887]), pp. 81-3.

food, which generally took me up three hours in every morning, when it did not rain. Thirdly, the ordering, cutting, preserving, and cooking what I had killed or caught for my supply; these took up great part of the day;\(^5\)

He is at pains to note, though, that all of the benefits he receives from the “exceeding laboriousness”\(^6\) of his work must be a result of his own time and effort.

The principle reason for work for the solitary labourer is, then, the production of goods for their own consumption or use. They are likely to focus predominantly upon satisfying their basic needs for subsistence as, “for want of tools, want of help, and want of skill”\(^7\) the degree of sophistication or complexity of the products any individual is capable of fashioning will undoubtedly be limited. But, beyond the simple task of catering for needs, there is also a further potential reason for working that would be available even to the solitary worker – that of the intrinsic satisfaction of pursuing or completing particular tasks. Indeed, Crusoe appears to experience this in his crafting of some cookware:

No joy at a thing of so mean a nature was ever equal to mine, when I found I had made an earthen pot that would bear the fire; and I had hardly patience to stay till they were cold before I set one on the fire again with some water in it to boil me some meat, which it did admirably well;\(^8\)

Whether such satisfaction is possible within all tasks, or whether it requires an activity of a certain type or complexity is certainly open to question. At this stage, it is suffice to note that on some occasions we will either pursue an activity for its own sake or will gain satisfaction from it beyond the mere use-value of what has been produced.

Although such limited productive outcomes may be available to a solitary Crusoe, once the solitary worker joins in an alliance with others, such as through an encounter with man Friday, the possibilities become enlarged. The resulting needs of

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\(^6\) Ibid. p.92.

\(^7\) Ibid.

\(^8\) Ibid. p.97.
two (or more) persons may increase in quantity, but it is likely that similar processes may be involved in their satisfaction, allowing for the potential for gains from specialisation. It may be decided that Crusoe will be charged with task of hunting and maintaining the shelter, while Friday will take care of farming and producing tools and furnishings. By a division of labour, narrowing the scope of the tasks each individual has to face, this allows them to spend a greater amount of time on each task, in turn allowing for the development of task-specific knowledge and skill that may increase overall productivity. For example, Crusoe might become aware of the best locations on the island for hunting particular animals and become adept at tracking them while hiding his presence, resulting in a more varied diet for both Crusoe and Friday. Further to the advances available from specialisation are also gains that might be made from collective effort. So there may be activities that would be beyond the abilities of a single person that could be accomplished by more than one person. For instance, Crusoe and Friday may together be able to move logs that would be beyond either on their own, allowing them to build a long fireside bench. Thus cooperative effort can provide significant gains upon solitary labour and wider cooperation can provide further gains through greater specialisation and greater use of collective effort.9

But it would be a mistake to simply extrapolate the dynamics of work experienced by Crusoe, or from the collaboration between Crusoe and Friday, onto the context of complex modern societies. For, in addition to the widespread gains made through cooperation, the dynamic of large modern societies also changes the manner in which people relate to each other and to the task of working. Consider, for instance, this extract from Crusoe’s journal while he was still continuing a solitary existence:

I had nothing to covet; for I had all that I was now capable of enjoying… I had no competitor, none to dispute sovereignty or command with me. I might have rais’d ship-loadings of corn; but I had no use for it; so I let as little grow as I thought enough for my occasion… But all I could make use of, was, all that was valuable. I had enough to eat and supply my wants, and, what was all the

9 The classic account of the benefits of the division of labour and economies of scale is Adam Smith’s example of a pin factory. Smith. Wealth. Book 1, Ch.1.
rest to me? If I kill’d more flesh than I could eat, the dog must eat it, or the
vermin. If I sow’d more corn than I could eat, it must be spoil’d. The trees that
I cut down were lying to rot on the ground. I could make no more use of them
but for fewel, and that I had no occasion for, but to dress my food.

In a word, the nature and experience of things dictated to me upon just
reflection, that all the good things of this world, are no farther good to us, than
they are for our use; and that whatever we may heap up indeed to give others,
we enjoy just as much as we can use, and no more… I possessed infinitely
more than I knew what to do with… if I had had [a] drawer full of diamonds,
it had been the same case; they had been of no manner of value to me, because
of no use.10

In this passage, Crusoe spells out how different his solitary relationship to the products
of labour is than it would be were he still in a social situation. The extent of his efforts
are limited by the degree to which he himself finds their products useful. In a larger
group this situation changes, and so, when working, the consideration is no longer ‘Do
I consider this product to be useful?’, but rather ‘Is anyone likely to find this product
useful?’ As a result, the evaluation of productive labour comes to have an
indispensably social component to it: we seek to pursue tasks that others recognise as
valuable, even on occasions where we do not personally share their evaluation.

As a result, the motivation to work may come to be closely entwined with a
desire for recognition. Rather than employing our efforts in order to meet our own
requirements, work becomes a way to achieve approval in the eyes of others. In this
manner, it might be useful to compare Robinson Crusoe, alone on the Island of
Despair, with the figure of the noble savage in Rousseau’s Discourse on the Origin of
Inequality. So, in a similar manner to Crusoe’s focus solely on the use-value of his own
labour, for Rousseau, “the savage lives within himself.” Meanwhile:

social man lives constantly outside himself, and only knows how to live in the opinion of others, so that he seems to receive the consciousness of his own existence merely from the judgement of others concerning him.\textsuperscript{11}

The importance of the evaluation of our efforts by others also makes it harder to assess the use-value of particular items. Some objects may have little or no practical use, but are highly significant in signifying particular attributes, and so may be highly sought after. As a result, a drawer full of diamonds becomes massively valuable, with each being regarded as signifier of status rather than something of no use. Cooperative social schemes, although contributing the potential for major improvements in overall output, also serve to complicate productive relations.

Yet, it is not simply through the alteration of evaluative perspective and desire for recognition that ongoing social life changes the dynamics of productive work. There is also the question of maintaining and reproducing the system of social cooperation itself. This requires a whole range of efforts that may have little obvious material result, but are in the long term an essential prerequisite for the ongoing productive process. Within this category would be included attempts to maintain the health and wellbeing of workers, the rearing and education of children, any work required to uphold and maintain the social relationships upon which cooperative productive activity depends. The larger the social grouping, the more likely that tasks such as these will require significant detailed attention.

From the above discussion, it is possible to suggest four broad responses to the question of why people work. These categories do not necessarily exhaust all of the reasons available to individuals, nor should they be regarded as mutually exclusive, as on occasion there may be significant overlap between them. However, they do begin to clarify some of the main social functions fulfilled by human labour.

i) **Work as a means to satisfy needs/preferences:**

The most basic reason for any human endeavour is as a means to satisfy needs or preferences. These may be fundamental basic needs for survival such as food or shelter, or alternately may be highly complex consumer preferences, such as a wish to obtain the latest version of the iPhone. In both cases, a situation exists in which the satisfaction of a need or preference requires some form of productive effort. In the former case the need could potentially be satisfied directly – as in the situation facing Crusoe – whereas the latter is an example of a situation in which the preference can only be settled indirectly. Since the production of a complex item such as an iPhone is only possible through the cooperation of many thousands of workers, obtaining it will only be possible through an exchange process. So, an individual who wishes to obtain such an object will have to sell their own productive efforts to an interested party in order to gain wages that they can then use to satisfy the preference.

In modern societies, the overwhelming majority of workers will be meeting their needs in this indirect manner. Equally, the division of labour that allows for productive gains through specialisation makes it increasingly likely that each individual will be fulfilling only a tiny role within an extensive process of production. Such factors were among the root causes of the alienation that Marx diagnosed as endemic to capitalist society. The fact that individual workers are able to gain little appreciation of either the overall working process they are involved in, or the full complexity of the resultant product, leads to a change in the relationship they have not just to their work, but also to themselves, the world and other persons. Given that Marx identified creative labour as the fundamental expression of the human species-essence, our estrangement from it becomes of the utmost importance. But, Marx could only be a critic of alienation as he perceived human production as something that may potentially be a site intrinsic worth.

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ii) **Intrinsic satisfaction of work:**

Although detailed in his account of the causes and consequences of alienation, Marx provided much less in the way of an account of the characteristics of non-alienated labour. Yet, it seems highly possible to provide some suggestions about the type of conditions in which work is more likely to be enjoyed for its own sake. Firstly, it might be suggested that work will be more positively experienced if it provides an opportunity for an individual to exercise their own creativity or developed capacities. In this manner, we might suggest that the organisation of work would comply with Rawls’ Aristotelian Principle, which states that “other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater its complexity.”

Beyond this, it is likely that where work overlaps with an individual’s interests, or it is aligned with their natural inclinations or emotions, it is far more likely that they will gain satisfaction from its pursuit. Equally, the degree to which they are themselves in control of, or responsible for, the process of production will also impact upon the resultant intrinsic reward.

As a result, it may be natural to concede that the Marxian critique may be accurate in its assessment of some of the failings of capitalist methods of production. The division of labour requires working processes are broken down into discrete tasks. Many of these tasks will be repetitive and will provide the capacities of their worker with little in the way of stimulation. Meanwhile, the tendency for workers to feel as if they are mere cogs in the machine will be exacerbated. Although there remain many tasks within complex modern economies that are of a highly stimulating nature, which allow for the free exercise of creativity and skilled endeavour, there does appear to be a tension between the scale of development of an economic system based upon a

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I will return to assess calls for work that can be regarded as meaningful or contributing to self-realisation in greater detail in the following chapter.
detailed division of labour and the potential for each individual worker to pursue tasks that provide them with intrinsic satisfaction.

**iii) Work as a means to gain recognition:**

A third potential source of motivation for working is the search for individual recognition. That is to say, individuals will seek validation from others via the efforts they exert in work. To a degree, this component of work seems welcome from a Rawlsian perspective: if we wish to conceive of society as a cooperative venture between equals, it seems fitting that workers will try consider pursuing productive activities that others will find valuable. Meanwhile, it also seems appropriate that the level of contribution made by each member is acknowledged. In this regard, there would appear to be a link between working efforts and the ability of each individual citizen to establish and maintain a sense of self-respect as a contributor to social cooperation. As a result, the lack of work, or the pursuit of work that is ill-valued may be deleterious to an individual’s sense of their own self-worth.

As with the satisfaction of preferences, it seems possible that recognition can provide a motivation for work in either a direct or an indirect manner. Recognition may be obtained directly from work via praise or reward for performance within a role or for the specific output of the task. Different examples of this would include a painter having their work praised by a critic, a teacher receiving the respect of a community on the basis of the role they fulfil or a salesman receiving a bonus for exceeding his sales targets. But an individual may additionally be motivated in their work by its indirect benefit to their search for recognition. So, rather than the role itself being a source of individual value, it is its enabling aspect that is sought after – financial freedom and the general sense of agency it affords the worker, or the ability to purchase items that might secure the attentions of others.

Here we see, however, a potential problem for egalitarians in the connection between work and recognition. As Rousseau noted in the *Discourse on Inequality*, there is a clear tension between the recognition of individual talents and contributions on the one hand, and the equal status of all persons on the other:
Whoever sang or danced best, whoever was the handsomest, the strongest, the most dextrous, or the most eloquent, came to be of most consideration; and this was the first step towards inequality, and at the same time towards vice. From these first distinctions arose the one side vanity and contempt and on the other shame and envy... As soon as men began to value one another, and the idea of consideration had got a footing in the mind, every one put in his claim to it, and it became impossible to refuse it to any with impunity.\(^\text{15}\)

Managing issues in relation to self-respect and individual recognition without compromising a commitment to the equal status of all persons will, therefore, be a key consideration that any liberal egalitarian approach to the organisation of work must consider.

\textit{iv) Work as a means of social reproduction:}

The fourth motivating reason for work is that certain tasks are necessary for the reproduction of the collective forms within which productive activity takes place. As stated above, this includes any activity required to ensure the health and wellbeing of the workforce, alongside activities required for the rearing and education of a future workforce. One point to note about such tasks is that many of them will fall within private social contexts such as the family and, as a result, will be less amenable to becoming part of a monetarised labour market. Equally, because of the close personal nature of many such tasks they are more likely to receive support from individual emotions or inclinations. As a result, they are more likely to be highly satisfying on an intrinsic level and are also likely to be pursued even when this is costly from the perspective of time or other resources. These features of the tasks of social reproduction – their socially rooted nature and high level of intrinsic value – mean that there may be a general tendency for them to be overlooked or undervalued both in economic analysis and in the material reward available for completing them.\(^\text{16}\)

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\(^\text{15}\) Rousseau. ‘Discourse’. p.90.

The above provide four suggestions for reasons that individuals may have for exerting productive effort, and also suggest some of the key functions that human labour has fulfilled, and needs to continue to fulfil, in order to maintain complex modern societies in at least their current form. In outlining these functions, I have stressed the benefits that may be accrued through cooperative endeavour, but have only touched upon some of the tasks that are required to enable this cooperation to flourish. One question I have not yet considered is how the activity of thousands, or indeed millions of separate workers might be coordinated. It is to this question that I will now turn.

4.2 Three modes of coordination

As noted above, the gains of cooperative endeavour are largely a result of its enabling of a division of labour, allowing for gains from specialisation. Yet these gains can only occur if there is careful coordination of activity to ensure that particular tasks are not unnecessarily duplicated and to draw attention to the manner in which tasks link up to ensure this proceeds smoothly, thus allowing for the full benefits of cooperation to be obtained. As an example, when Robinson Crusoe was alone he did not have a coordination problem, but merely had to plan the use of his own time against the goals he wished to realise. Yet, once he encountered Friday, the potential for productive gain from cooperation becomes dependent upon them managing to coordinate their activity. Were they both to decide to go hunting in the same area of the island, the likely outcome would be that each would interfere with the activity of the other and the overall outcome would not be favourable, even in comparison with solitary endeavour. Equally, if both assumed that the other were responsible for maintaining an adequate shelter, they may face a nasty surprise when a storm next breaks over the island.

Hence, in order to maximise the gains available from cooperative activity, there needs to be some means of coordination between the various different actors. In this section, I detail three potential ways in which coordination of productivity could occur: through self-organisation, by command or through markets. This is not to claim that these options present a stark choice – I would suggest that all three play a vital role in
the coordination of modern societies – but rather that the extent and manner in which each alternative is employed will help to determine the overall character of particular cooperative schemes.

4.2.1 Socially embedded self-organisation

It may be possible within small groups for activity to be coordinated with no formal mechanisms of control or organisation. For instance, simply through discussion, it may be possible for Crusoe and Friday to decide how they are to split their efforts and to ensure, where one is dependent on the activity of the other, that this occurs in a timely manner. This type of relationship characterises many human social relations (friendships, for example) characterised by a lack of hierarchy and freely embraced cooperative activity. Coordinating activity between friends will typically take place in an informal and relatively spontaneous manner, relying upon negotiation and compromise to arrive at a settled outcome. For many thinkers and activists of a Romantic egalitarian inclination, this type of coordination has provided the optimum template for human social organisation. It appeals to the better elements of our nature to suggest that other-regarding altruistic motivations can be employed successfully, with all persons working together for the common good without the need for strong commanding authority figures or the pursuit of selfish gain.17

As such, schools of political thought such as anarchists and communists have sought to find a way to implement such ideals on a wider scale. However, such seemingly spontaneous coordination may only be possible in certain specific contexts. Firstly, such fluid and egalitarian social cooperation will be easiest in situations where the participants have long-standing relationships with each other. This is the case with friendships or family relationships – past experience provides a strong history of trust, reciprocity and compromise that will inform the actions of all parties in a manner that makes them more willing cooperators. The possibility of similar such cooperation with strangers seems an altogether more demanding proposition. Secondly, the appearance of easy egalitarian relations between parties may actually conceal a range of subtle and

17 We might consider G.A. Cohen’s appeal to the idea of a camping trip in his Why Not Socialism? (Woodstock: Princeton UP: 2009) as illustrative of this sort of appeal.
informal dynamics that structure their interaction: some may have more forceful personalities than others or be better at negotiating or bargaining; meanwhile, even friendly interaction is typically guided by a range of social norms that may underpin cooperative solutions through certain expectations or rule-governed behaviour.\textsuperscript{18}

But, beyond these factors, perhaps the strongest point against the possibility of such self-organisation is the degree to which it fails to provide a secure basis for ongoing cooperation. If collective effort is reliant upon the specific inclinations of its members, there is always a potential that the full benefits of cooperation will not be realised. This is not to argue that cooperation will always fail because human beings are naturally selfish, but is rather to suggest that it is rare that individual inclination always matches the outcome that will produce the greatest collective good. For instance, imagine that Friday and Crusoe are discussing the task of collecting firewood – a task that they both agree is essential for their continued survival. They decide that they will require a hundred logs each week. Crusoe is happy to volunteer for the task, as he enjoys chopping wood. Friday is equally happy to allow Crusoe to proceed, as he finds chopping a chore. However, Friday is much quicker at chopping logs, able to do twenty five in an hour, compared with Crusoe’s ten per hour. As a result, Friday could produce enough firewood to last a week in just four hours, whereas for Crusoe the same task would take ten hours. So, although they may reach an agreement, this is far from an optimum solution as it does not represent the most efficient use of their resources.

As the size of a cooperative scheme – and the corresponding range of tasks that must be completed – is increased, the chances that a happy coincidence of inclinations will lead to the optimal outcome would appear to decrease. As a result, it seems unlikely that cooperative endeavour at a larger scale can succeed without some specified guiding structure or mechanism to ensure that all required work is completed. Indeed, historical records show that attempts at the self-organisation of social interaction have had little sustained success outside of small groupings such as

communes or kibbutzim, tending instead to result in either social chaos or the wider application of coercive authority.\textsuperscript{19}

4.2.2 Organisation by command

Although organisation within small groups may be possible without a formal authority structure, even here it may be the case that a degree of hierarchy would improve performance. Providing particular individuals with the power to command others will speed up decision making processes, and provides a means for ensuring that even unattractive tasks are completed. Relationships of command will typically mean there is less focus upon individual inclination and more focus upon optimum output. So, if a third person, the Manager, was added to Crusoe and Friday’s island, with the authority to plan their working activity, it is likely that he would allocate firewood duties to Friday, as he would be best placed to efficiently complete them.

There are two key issues to consider in thinking about coordination by command. The first is the normative issue of accounting for the authority of the relationship between the commander and the commanded. What reason might there be to explain the obligation of one person to follow the command of another? In the context of politics, attempting to account for the obligation to the authority of the law or the legitimacy of political authority are among the great philosophical problems.\textsuperscript{20}

From a practical perspective, the justification for hierarchy within productive relations

\textsuperscript{19} One potential rejoinder to the argument expressed here would be to draw attention to the possibility that access to computer networks may allow for wider and easier cooperative endeavours to flourish. Thus, the emergence of the open source movement might be a portent of new possibilities for network-based cooperation. See, for example, Y. Benkler. \textit{The Wealth of Networks: How social production transforms markets and freedom} (London: Yale UP: 2006).

This is a particularly interesting area of emerging activity – one that warrants more sustained scholarly attention than I can pay it here. Briefly, though, I would suggest that, at present, it remains too early to give a conclusive judgement about either the novelty or the long-term sustainability of such developments.

will largely be based upon grounds of expertise. If the manager is the person best placed to make decisions that improve productive output, their opinions should be regarded as superior and acted upon.21

Yet, this justification is not uncontroversial. Marxists would contend that the power relation within production is purely a consequence of structural class divisions between capitalists and workers. Equally, a Marxist would assert that the capitalist exercise of power over the worker will serve to ensure the capitalist receives as much of the proceeds of cooperation for themselves, thus maintaining the structural inequalities of power between the classes. But, even if the Marxist analysis of the structure of production is not accepted, there remain concerns about the degree to which a command structure necessitates a surrender of individual freedom on behalf of those who are subject to orders. Equally, beyond production itself, there remains an issue of the extent to which relations of command and obligation within the working environment may undermine the potential for an egalitarian administration of political power more generally. Such considerations are key problems for any normative approach to employment to consider, and will be tackled at length in the following chapter.

A second major concern that impacts upon attempts at coordination by command is the practical question of the information required to implement efficient choices. A whole range of information is required in order to effectively pursue optimum forms of cooperation, including details of the particular opportunities and resources available, technological possibilities, alongside the tastes and preferences that production is supposed to satisfy. As this information is dispersed widely amongst participants, a successful command system must consider how to gather and interpret it in order to make effective choices about who is to produce what, in what order and to what quantities. For Manager to be able to effectively command Crusoe and Friday, he needs them to be able to feed information back to him. Imagine Friday spots a ship from high ground at the centre of the island, but the only means to attract it would be to light a fire down by the beach. But if Friday cannot convey this

21 The classic example of this attitude in political philosophy is provided in Plato’s account of rule by expert in *The Republic* (Oxford: Oxford UP: 1994 [370 BC]).
information back to Manager, it remains useless. So, if the only means for him to pass this information on is by running down to the shore, by which time the ship may have passed, this will undermine the effectiveness of the system of command. Equally, if Manager spots Friday up on the high ground jumping up and down and pointing out to sea, but interprets this as Friday being keen for a swim, an opportunity for rescue will go unrealised.

The costs involved in maintaining effective procedures for gathering and processing of relevant information are likely to become larger as an organisation swells in size. At some point it seems likely that these costs will start to have a significant detrimental effect upon the potential performance of the organisation. Historically, attempts to mass control entire economies through central planning have floundered, in part due to inadequate transmission of information throughout the system, so that productive output fails to match demand, and the system struggles to respond to innovative new opportunities. As a result, attempts at wholesale economic planning have typically been outperformed by those structured around a price-based market system.

4.2.3 Market coordination

The market system aims to avoid the dilemmas of information gathering by allowing individuals to make many decisions at a local level based upon the information they have available to them. In this manner, a market system aims to build upon the feature of dispersed information via the creation of a simple mechanism for signalling additional cues about the costs of particular actions, products or opportunities, thus allowing individuals to make their own decisions about production and consumption. The mechanism that is adopted within markets is that of money and a price system.\(^{22}\) The varying costs or rewards of particular items or actions helps to disperse additional information about the particular shortfalls and surpluses within the system to its various members. This makes it possible for coordination of productive activity to occur simply through individual pursuit of existing aims and preferences in response

\(^{22}\) For the classic account of how market prices help to deal with dispersed information, see Friedrich Hayek. ‘The Use Of Knowledge In Society.’ *The American Economic Review*. Vol. 35, no.4 (1945), pp. 519-530.
to fluctuating market prices. Guided only by these aims and preferences, considered against the relevant price information, individual decisions will themselves help to knit together the pattern of productive coordination. So, to return to the example of gathering logs for firewood, if Manager were to suggest a payment of one coconut for every five logs gathered, then Friday would be able to earn five coconuts per hour where, in the same time, Crusoe would only be able to earn two coconuts. Even taking account of their relevant attitudes to the task, this might induce Friday to be the one to take it on.

Market interaction, then, attempts to maintain a decentralised decision making structure and to economise upon information transfer by only requiring the transmission of price information. Yet, markets also provide normative gains upon command structures. As discussed above, one of the issues that any system of coordination must face is that it is to be expected that individual interests will rarely coincide precisely with the good of the collective. The response of a system of command to this situation is to override the interests of the individual where this is necessary for the collective good – a situation that is hard to reconcile with arguments that insist upon the free and equal status of all persons. In contrast, markets attempt to align individual interest with collective interest by providing individuals with additional reasons for undertaking work that is widely valued or that they possess a particular aptitude for. As work that is beneficial to others will be more highly rewarded, it can also become more beneficial to the individual themselves, thus reducing the gap between socially desirable and individually attractive work. In this manner, market organisation can achieve a high level of cooperation without the need for coercion.

However, although there are no formal differentials in power within markets, this does not mean there will be equal performance within them. Different individuals will have different resources available to them: in abilities, in information and in opportunities. Those with the best resources, or those able to make best use of the resources available to them, will flourish in market systems. Meanwhile, those either less adept or less well-endowed may well struggle. As a result, some will do better at advancing their own ends in the market in comparison with others and material
inequality is a virtually inevitable outcome. For many commentators upon markets, one key concern has been to attempt to find a means to harness the coordinating power and productivity of the market system without this leading to unacceptable differences in status between participants. Rawls’ difference principle is one notable attempt to pursue such an aim. Such an approach suggests that the focus for reform may be more appropriately addressed at the character of institutions that surround the productive process, to mitigate the problems of market interaction while retaining its productive benefits.

4.3 The organisation of large-scale productive systems

In the previous section, I detailed three potential methods for coordinating productive activity. The task that remains now is to provide an account of how these differing methods come to shape productive endeavour in modern societies, as a basis for a more thorough consideration of issues relating to the practice of work. For the most part, this involves a consideration of the interaction between relations based on command and those based upon the market. In turn, I shall consider the emergence and widespread use of relations of command within the firm; the interaction between firms and markets; the manner in which firms find workers within the labour market; and finally, the implications this has for the relationship between firms and workers.

4.3.1 The emergence of the firm

It has been typical to characterise modern capitalist economies as being based largely upon the market as their primary mode of coordination. Yet, perhaps this is a mischaracterisation of the true shape of productive relations. As Herbert Simon recounts, if we were to imagine a visitor from Mars, who:

> approaches the Earth from space, equipped with a telescope that reveals social structures. The firms reveal themselves, say, as solid green areas with faint interior contours marking out divisions and departments. Market transactions show as red lines connecting firms, forming a network in the spaces between them… No matter [where] our visitor approached… the greater part of the space below it would be within the green areas, for almost all of the
inhabitants would be employees, hence inside the firm boundaries.

Organizations would be the dominant feature of the landscape... When our visitor came to know that the green masses were organizations and the red lines connecting them were market transactions, it might be surprised to hear the structure called a market economy.\textsuperscript{23}

This is by no means an inevitable or obvious outcome of economic forces. It would be possible to utilise a system in which each individual worked solely on the basis of market interaction, transacting via contract for each service they required. Given the informational advantages suggested above for market systems over systems based upon command, why might a system develop in which such a large proportion of activity ends up taking place within command structures in firms?

One solution to this problem was provided by Ronald Coase, who suggested that the existence of firms could be explained by attempts to overcome ‘transaction costs’.\textsuperscript{24} In other words, market interactions are not costless, meaning that in some situations it is actually cheaper and more effective to take actions out of the market. This becomes particularly apparent in large scale or complex production procedures such as, for example, Adam Smith’s example of a pin factory. Theoretically, the entire procedure of several workers completing separate tasks in pin production could be coordinated via market interaction: one worker could agree a contract to produce lengths of wire cut to appropriate lengths, then deliver them to another, who would have agreed a contract with a third to have them delivered on with their points sharpened, in order that the third could then attach heads, before delivering them on again. It can immediately be noted that the negotiation of each contract would take time out of the worker’s productive schedule, yet there are further costs beyond this. Even before this, each individual would have had to carefully research the potential market for their stage of the process, invest in any relevant equipment or skills, then locate partners for the other stages of the process. Even once these tasks are complete...


they need to ensure that the deal they are getting remains the best available, looking elsewhere to assess whether cheaper or more reliable alternatives were available. Each worker’s need to conduct these tasks would be at the expense of their productivity within the pin manufacturing process.

If transaction costs make the final output more expensive than one that could be achieved by a centralised solution, then it is likely that organised firms will take a number of transactions out of the market. So, rather than each worker deciding to invest in relevant equipment and then locating and separately negotiating with each other, one firm could gather all relevant equipment into a single process, then locate staff to operate it. This would still entail a range of transactions costs, such as locating and training staff, but these may well be notably lower than those involved in leaving everything to the market. Hence the development of the solid green areas that appear in the Martian’s telescope.

4.3.2 Firms’ actions within markets

Although firms may take the organisation of certain tasks away from the market system, this does not mean that a firm’s manager has absolute freedom to act in any way they see fit. Firms still have their choices conditioned by market competition from two separate directions: within the product markets where their output is traded and within financial markets where they may need to raise capital. The latter induces discipline either via stock markets, in which the valuation of the company may be driven down if management decisions do not inspire confidence, or through the banking system, where firms that do not appear viable will struggle to obtain continued financial support.

In product markets, meanwhile, firms will always be susceptible to competitors who are able to produce an alternative of better quality or lower price. Two examples may help to illustrate this dynamic. The first is that of the Xerox Corporation. Protected by patents, Xerox had a monopoly within the photocopier market. As a result, although recording many years of record profits through the 1960s and early 1970s, it became complacent – the level of innovation of its products dropped while the costs of production grew. However, the settlement of an anti-trust suit in 1975 forced Xerox to give up its patents to competitors. Within four years of this settlement, Xerox’s share of
the US photocopier market had fallen from 100% to less than 14%, as leaner competitors entered the market, offering cheaper, more attractive alternatives. In striving to regain their competitive edge, Xerox was eventually able to reduce its manufacturing costs by 20% – an indication of the level of inefficiency that had previously been tolerated.  

But, it is not just in the ending of monopoly situations that competition can exert a disciplining influence over production. The automobile market in the US provides an illustration of this effect. For many years the ‘Big Three’ American manufacturers (GM, Ford and Chrysler) dominated the market, with intensive mass production techniques that fully exploited the benefits of economies of scale. Yet, from the 1970s onwards, this dominance was challenged by Toyota, whose innovative production techniques of ‘just-in-time’ production, flattened hierarchies and greater use of subcontractors allowed them to improve the cost-effectiveness and reliability of their manufacturing systems. This allowed them to produce high quality cars at a lower cost than their US competitors and to gain a large segment of the market at the expense of more established firms, who then faced the challenge of having to adapt to try to meet the challenge.

This demonstrates the manner in which market interaction ensures that companies must remain vigilant in regard to their production methods. If one firm finds a way to significantly improve quality or productivity, or to reduce their production costs, this will put pressure on their competitors to either respond or follow suit. Thus market forces will still have a significant effect upon the actions and internal character of firms, with successful innovations tending to spread across firms and with those reluctant to innovate often driven out of business.

4.3.3 Labour markets

Beyond product markets and access to financial markets, there is also a third front of interaction between firms and markets – the market for staff to fill roles within the firm. Each firm will need to calculate the terms they need to offer in order to attract prospective workers to take on and complete the roles they wish to fill. The relative attractiveness of various posts, coupled with the degree to which they require particular skills or attributes to fulfil, will have a determining influence on the level of offer required to fill each post. Roles requiring specialist skills may require qualifications that take years of training or education to achieve. The process of gaining such qualifications may entail significant sacrifice on the part of a prospective worker. As a result, roles requiring specialist skills may need to offer better terms than unskilled posts in order to attract people to endure the necessary costs.

There is one important feature of the form of labour markets that distinguishes them from some other markets. That is, as far as labour is concerned, there is no easy match between the supply and demand. In comparison, in many product markets, rising and falling prices typically lead competition to an equilibrium point in which all demand is sated or all supply is consumed. For instance, if there is a surge in demand for wide-screen televisions, an initial response to this would be that the price would increase. In turn, the higher price would encourage existing producers to expand production or, if they failed to respond in this way, would encourage new producers to try to enter the market. As a result, the rising price would provide a stimulus to supply as a means to meet the increased demand. The competitive equilibrium price at which the market settles will be a market clearing price that balances supply and demand.

In contrast, within labour markets, firms are not seeking to meet the entire demand for jobs, instead merely seeking to fill the posts necessary for production. As a result, the wage they pay will be what is required to attract a suitably skilled worker, rather than that required to clear the market. A firm does not create additional jobs on the grounds that there is an excess supply of labour, but rather in response to production needs, which are defined by levels of demand for the firm’s products. Similarly, although workers may move between sectors or geographical locations in response to rising and falling wages, the overall supply of labour is determined by
long-term demographic trends, and so cannot simply be adjusted in response to market forces. As a result, the labour market is likely to reach an equilibrium with excess supply or demand remaining – it is a non-clearing market.

Within such non-clearing markets, there is the potential for significant power relationships to develop. If market forces do not exert pressure for supply to match demand, then there will remain an unfulfilled excess on one side of the market. This puts those on the other side of the market (known as the short side) in a highly advantageous position, as they have something that is wanted by more people than it is capable of being supplied to. So, for example, in an employment market with many suitably qualified candidates competing for a few available jobs, employers will be in a position of power in relation to those seeking employment. This may manifest itself in lower wages being offered, or it also may become apparent in greater coercion within the working relationship itself, as the employee is fearful of the potential for the loss of employment. As a result, the nature of the relationship between firms and labour markets can exert a sizeable influence upon the character of the relationship between employers and their staff.

### 4.3.4 The working relationship

The importance of differences in power becomes clear when considering the relationship between firms and their employees. This is because the terms the employee works under are, almost by necessity, incomplete. This means that a workers role will, on many occasions, be contested, lending an inherently political dimension to the working relationship.

Working relationships are typically constituted around a contract of employment between the firm and each of its workers. However, unlike the sort of contract that might be found in some product markets – one that requires the delivery of a particular quantity of a particular item at a particular time – there may be a degree of incompleteness and ambiguity about an employment contract. Firstly, the actual

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transaction will typically be the employer purchasing a quantity of the worker’s time (e.g. eight hours per day, five days per week). Yet, comparatively, there may be differences in the amount of work that different workers are able to produce within the same time period, making it difficult to have any degree of standardisation within an employment market. Equally, once in employment, from the perspective of standard economic assumptions about motivation, there seems to be little incentive for the worker to exert themselves to the fullest of their ability, as they will receive no additional gain from such effort on top of that they would receive from exerting the bare minimum of effort required to avoid dismissal.\textsuperscript{29} One of the biggest tasks facing firms in regard to staffing involves such motivational questions: gathering information to make a judgement on the likely performance of prospective staff; monitoring the performance of existing staff; and finding ways to motivate staff so as to obtain the maximum possible productive effort.

While employers face uncertainty regarding the levels of effort that staff will expend, staff are likely to face a high degree of uncertainty regarding the precise manner in which they will be expected to fulfil their role. The degree of complexity and uncertainty involved in even straightforward tasks make it almost impossible (or, at least, highly uneconomical) to produce a contract that precisely itemises the performances expected in response to every possible contingency. As a result, in most roles, the degree of obligation the worker faces will be unclear and open to negotiation on an ad hoc basis. This introduces a degree of contestability into the relationship, as each side will, at times, be expected to go beyond the bare terms of their agreement. One demonstration of the level of incompleteness in the employment relationship can be witnessed in the use of ‘work-to-rule’ as a form of employee protest, and the extent to which such a protest can bring the operations of a firm to a near standstill. Given this wide range of unspecified and contestable aspects within employment relationships, any power disparity between parties will come to have a shaping influence upon day to day relations. Thus, if a particular labour market exhibits a significant gap between levels of supply and demand, those on the long side of the

\textsuperscript{29} I will subject these standard economic assumptions about motivations to closer scrutiny in Chapter 6.
market will find themselves at a major disadvantage, not just in contractual bargaining, but also in ongoing conduct within the role.

4.4 The changing shape of modern production

For illustrative purposes, I now wish to provide a brief outline of some of the historical processes that have shaped productive relations in the period since the industrial revolution. My aim here is to show how producers have decided to handle the various problems of coordination, motivation and efficiency outlined above, and to assess some of the implications of varying strategies.

Pre-industrial and early industrial enterprise was predominantly modestly-sized, locally-focused and typically had a simple structure:

Before 1850 hierarchical structures were virtually nonexistent outside the Episcopal churches and the military... Manufacturing was generally conducted on a small scale. One person, or perhaps a small group of people, hired all the employees and directed all of the activities of the business, and thus each business was limited to a scale that an entrepreneur could personally supervise. The small scale of operations generally fit the markets of the time.\(^{30}\)

However, advances in technology began to allow firms to expand beyond this limited reach: improved ocean shipping and the development of railways permitted goods to be swiftly carried over greater distances; meanwhile the telegraph allowed for rapid transmission of information. Firms had the opportunity to expand beyond their local market, opening up the potential for production to be carried out on a much greater scale.

As noted above, large firms are well placed to take advantage of gains from economies of scale and the division of labour, breaking down activities into a number of component tasks. This process removes the need for widespread specialist knowledge or for skilled craftsmen. The epitome of this approach was reached in production line techniques, such as those developed by Henry Ford, which allow for large numbers of complex consumer goods to be produced at a cost cheap enough for

mass consumption. Thus, new technologies similarly enabled mass production and, in turn, mass markets.

The greater the scale of production, however, the greater the range of transaction costs that have to be handled: coordinating production and distribution; staffing; market research and product development; sales and marketing. The increasing size and complexity that this entails seems to favour clear lines of command and a hierarchical structure. One solution that came to the fore in the early part of the twentieth century was that of the multidivisional firm. In such a form, individual areas of a business would be run separately by a manager, who would then report to managers at a higher level responsible for the coordination and strategy of overall the enterprise. The overall command structure becomes more decentralised, allowing divisional managers some freedom to make decisions as they see fit. The proximity of the manager to their divisions’ activities allows for more nimble and informed responses to local conditions or concerns, but also makes them responsible for the performance of their sector, helping to maintain accountability as the company grows. In addition to this, a multidivisional firm will find it easier to diversify into other areas of business, allowing for firms to expand beyond a single core area of business to offer a range of different products.31

Yet, this still seems to leave the problem of how to motivate workers. The larger a company grows, the less likely it is that a worker will feel a strong personal commitment to it. Equally, techniques of mass production provide the sort of work that seems least likely to provide a worker with intrinsic satisfaction – small repetitive tasks requiring little in the way of skill or developed capacities. Indeed, partly for these reasons, John Stuart Mill was of the opinion that cooperative associations would come to dominate the economic landscape. It was Mill’s belief that greater education of workers would lead to a lower tolerance of command from others. In the same way that a child tires of taking orders from their parents as they get older, Mill believed that the provision of schooling to those who had typically been denied it would lead to a

31 Ibid. pp.540-550 for more detail on the development and benefits of the multidivisional firm.
much greater demand for their own interests to be recognised in full.\textsuperscript{32} One particular manifestation of the oppositional stance that Mill discerned could be viewed in the growth of the cooperative movement in both France and northern England. Rather than submitting to the ongoing command from an employer, workers instead sought to pursue their own interests, while still maintaining the benefits of productivity that a larger organisation could provide.\textsuperscript{33}

But, for Mill, the real key to the potential of cooperatives was that the worker would themselves personally benefit from greater productivity, and so would be motivated to engage in their work with greater conviction, striving of their own accord to be productive, rather than having to be disciplined into it. This would provide collectively managed firms with a competitive advantage in comparison to their hierarchical counterparts, in that motivational problems would be much less apparent. Beyond this, the greater involvement and rewards accrued by members of such firms would make them a far more attractive proposition to workers hence making it, “not probable that any but the least valuable work-people will any longer consent to work all their lives for wages merely; both private capitalists and associations will gradually find it necessary to make the entire body of labourers participants in profits.”\textsuperscript{34}

These advantages led Mill to believe that cooperatives would gradually supplant rival forms to become the dominant structure for productive activity. This prediction that has not been borne out by historical developments – although there are

\textsuperscript{32} “Of the working men... it may be pronounced certain, that the patriarchal or paternal system of government is one to which they will not again be subject. That question was decided, when they were taught to read, and allowed access to newspapers and political tracts... when they were brought together in numbers, to work socially under the same roof; when railways enabled them to shift from place to place, and change their patrons and employers as easily as their coats; when they were encouraged to seek a share in the government, by means of the electoral franchise. The working classes have taken their interests into their own hands, and are perpetually showing that they think the interests of their employers not identical to their own, but opposite to them.” J.S. Mill. \textit{Principles of Political Economy with some of their Applications to Social Philosophy} (London: Longmans, Green, & Co.: 1909). p.756.


\textsuperscript{34} Mill. \textit{Principles}. p.791
still many examples of active cooperatives, the corporate firm remains the dominant form of productive enterprise. In part this is a result of problems faced by cooperatives that limit their application. One problem with large-scale cooperatives is that, without a concentration of ownership, there may be little incentive for any single member to pay close scrutiny to the overall direction taken by management. At the other extreme, if a heterogeneous set of cooperative members take too close an interest in the day-to-day activity of the firm, there is the potential for significant dispute about strategy, which is harder to resolve within a cooperative structure.

Yet, the ongoing existence of corporations is not simply due to problems facing cooperatives. It can also be attributed to the successes of corporate firms in addressing issues of staff motivation. One benefit was that clear hierarchical structuring of firms not only assists in coordination, but also opens up the possibility for an individual worker to climb the corporate ladder. Decentralising of command makes it easier to monitor the progress and output of particular staff, and for them to develop area-specific knowledge and skills. Implicit within this is the promise that hard work and commitment may be rewarded with more responsibility and greater remuneration. In this manner, the goals of individual workers become more closely aligned to performance within their specific role and to the fortunes of the company more generally.

Another measure that may have helped to prevent the disappearance of the firm would be the changes within the conflict described by Mill, between the interests of workers and their employers, caused by the growth of union power. While the might and power of some corporate firms grew to staggering levels, the relative powerlessness of individual workers was able to be assuaged somewhat by the counterbalancing growth of collective solidaristic action. By banding together, workers found they could increase their bargaining power vis-à-vis the short-side power of employers, in order to seek improvements in their working pay and conditions.

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35 Notable examples include the John Lewis Partnership of department stores in the UK or the Mondragon Corporation based in the Basque region of Spain.

Meanwhile, the sense of purpose and togetherness engendered by union organisation helped to provide some solace against the potential alienation of large-scale factory enterprise.\textsuperscript{37}

The power of organised labour was also instrumental in the development of welfare-state policies in many market-based societies. Reforms such as unemployment insurance, healthcare and state pensions helped to provide workers with a degree of insulation from the market. No longer was it the case that a lack of work or ill health was a likely cause of ruin. This provided workers with a degree of extra bargaining power in regard to employers. If unemployment will not be a cause of destitution, then workers will not be as desperate for employment as they would with no safety net in place, meaning that employers have to offer better terms in order to attract workers. Hence, the level of exposure of workers to the necessity of selling their labour within a labour market can be seen to be a key determinant of their potential bargaining power, and so measures such as welfare-state policies can serve to increase this power.

Another factor worth noting is that large-scale enterprise can be a source of social stability. If workers are able to remain with a single employer throughout their career, with the prospect of progressing through the organisation, this reduces the need for labour mobility. Indeed, many towns and cities became closely associated with a single industry or even a single employer. As a consequence, they might experience a high degree of persistence and continuity in terms of their communities and neighbourhoods, allowing strong informal personal ties to build up. In this way, the social and motivational benefits that Mill ascribed to cooperative ventures could also become apparent within corporate organisations, undercutting the demands that Mill thought would inevitably lead to the eclipse of the capitalist firm. Workers found it relatively attractive to be highly productive within a capitalist firm, as this would enable them to progress within the organisation to gain a position of greater authority and income. The post-World War Two period, particularly within the US and Western Europe, was marked by improvements in both working conditions and standards of

living, delivered by the solidarity of organised labour coupled with ongoing advances in corporate productivity and mass markets.\textsuperscript{38}

However, the late twentieth century witnessed major changes to this particular settlement of interests, as markets developed and became more closely linked on a global scale. In part, this is due to global political and economic trends, with the collapse of the Soviet Union state-socialist regimes in Eastern Europe, a shift towards markets in China and significant deregulation and privatisation in capitalist markets. Yet, as with the transition to mass markets on a national scale, much of the impetus for change has come through technological change: cheaper air cargo and the development of containerisation enables much more economical and more effective trade across vast distances; improvements in electronic communications allows closer coordination over greater distances; greater computing power means vast quantities of data can be quickly processed, aiding the ability of firms to effectively plan and nimbly change their strategy to maximise efficiency; in manufacturing, new technologies allowed firms to produce a much wider variety of products at a low cost, enabling a shift away from mass markets to more fluid, segmented approach; new technologies can also reduce the need for labour, as many simple tasks can be almost entirely mechanised.

Such changes have had a significant effect upon the manner in which work is organised and administered. The rapid technological changes, coupled with an opening up of new markets and opportunities have tended to reward flexibility and innovation. As a result, the economies of scale that had been so important in mass markets are either of less benefit, or no longer require such large labour inputs. Equally, the increased technological possibilities for coordination have reduced the benefits to a corporation of handling most aspects of production on a single site – or even within the same firm. As a result, it is possible for firms to benefit from adopting

\textsuperscript{38} N.F.R Crafts. ‘The Human Development Index and Changes in Standards of Living: Some historical comparisons.’ European Review of Economic History. Vol. 1, no. 3 (1997), pp. 299-322. This article attempts to provide a better indicator of living standards than a simple emphasis on economic growth. It develops an analysis of growth rate adjusted for changes in mortality and leisure time. For each of sixteen countries (the major countries of Western Europe and North America, plus Japan), the period 1950-1973 outperformed the periods 1870-1913, 1913-50 and 1973-92. p.317.
a looser, more flexible organisation between divisions, or even to outsource certain functions of production or productive support entirely. In a global market, this also provides the benefit of opening every separate task or set of tasks up to worldwide competition, with firms potentially being able to seek the most attractive location in terms of labour costs, tax and regulatory regime and available skill base for each. In effect, this may make a position on the short side of a labour market ever shorter, providing bargaining power not just against workers, but also potentially against government policies. As a result, the ability of governments to provide extensive guarantees of welfare entitlements to their citizens has come into conflict with their desire to be an attractive location for commercial and productive activity.

This has had a significant effect upon working patterns. Where previously it would have been likely – acceptable performance permitting – that an employee would remain with a firm for many years, now even very strong performance may not be sufficient to guarantee continued employment if a similarly qualified worker could be employed at a lower cost elsewhere. Equally, companies have sought greater flexibility through a wider use of temporary, part-time and casual labour, allowing them to deal with dips or spikes in productive requirements without incurring long-term costs. In other words, firms can now not just outsource particular tasks or areas of production but can also, in effect, outsource significant portions of their workforce. If looking at today’s economic activity, although there would still be significant areas of green, Simon’s Martian may notice far more red lines and generally a looser, more nebulous network structure.

If this is the case, what has happened to the transaction costs that had made large hierarchical organisations profitable? In part, these have been significantly reduced as a result of technological advances. For instance, online shopping has vastly reduced the necessary overheads of retailing a product. Platforms such as eBay allow even small cottage industries access to a global marketplace. Yet the reduction of such

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costs is not the whole story. A further contributor is that the strong bargaining position of employers allows many costs to be transferred onto workers or potential workers. Intense competition for jobs mean many of the costs of acquiring adequate skills, knowledge or experience fall increasingly onto the prospective employee. Consider, for instance, the use of unpaid internships – enthusiastic potential workers who are prepared to forego wages, thus themselves bearing the costs of gaining the experience deemed necessary to satisfactorily perform a particular role.

Yet, it is not simply in tasks involved with locating and obtaining suitable work that burdens have shifted towards the workforce. Workers are themselves increasingly expected to absorb many costs involved in reproduction of labour that may previously have been carried by firms, or wider social structures: greater use of short-term or casual labour offers much less protection for workers in the face of illness or periods of unemployment; the reduction of company pension provision requires each worker to plan more carefully for their future; the norm for families to have two working parents creates a significant need for childcare. Such factors may, in turn, increase strain upon social welfare provision.

As well as enabling more flexible approaches to coordination, technology also allows a firm greater levels of scrutiny over the behaviour and performance of its workers. Electronic systems may be able to provide management with regular and detailed information about the performance of individual workers, teams and divisions. From the perspective of managers, this would appear immensely beneficial – identifying areas of particularly high or low productivity may help in improving a company’s overall performance. Meanwhile, closer monitoring of individual outputs enables the use of incentives to motivate increased performance from staff, or alternatively may be used to discourage shirking.41 Such processes potentially allow for a much greater scope for authority over the worker within employment, extending and intensifying the relationship of authority of the employer over their employees. Given

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their greater precariousness within employment, workers are more likely to be willing, or face few realistic alternatives to submission to this authority.

Overall, then, economic and technological developments have the potential to enable a situation in which workers are at the same time less secure in their relations with a particular employer and also more deeply subjugated to their command. This is not to argue that this is the universal perspective of workers throughout the labour market, but rather to suggest that it does provide a logically consistent response for employers to some key dilemmas of productive organisation, given prevailing technology and market conditions.

4.5 Conclusion

In this chapter, I have attempted to gain some understanding of the practice through which productive labour is organised and to understand why participants may be prepared to endorse particular productive arrangements. In so doing, I have suggested that we should be alert to both the benefits and the problems attached to different schemes of productive organisation. For instance, larger enterprises are able to produce benefits from economies of scale, but may be alienating for workers, meanwhile hierarchical relations of command may help effective coordination, but introduce troubling disparities of power. In regard to the use of markets within productive relations, I have argued that this provides productive benefit in that it is able to reconcile an efficient use of resources with a high degree of individual freedom. However, the structure of employment markets are such that there is an ineliminably political dimension to the employment relationship. As a result, I stress the degree to which the day-to-day experiences of particular workers are, to a large extent, shaped by the character of employment markets, which may be effected by a wide range of factors – political, economic or technological.

But, while working relationships are shaped by the character of surrounding markets, they remain amenable to political control, either via the direct regulation of workplaces, or through attention to the regulations and rights around which employment markets are based. The question then becomes one of the specific circumstances in which market interaction should be constrained and of the character
of working relationships deemed most desirable from a normative perspective. In other words, to what extent should working relations be left to market coordination and what reasons might we have for constraining markets? The following chapter will examine some of the answers given to this question that draw on insights from Rawls’ work.
Chapter 5: Rawlsian Approaches to Work

Having developed an account of the logic behind the current practice of labour markets, I now wish to turn to assess the manner in which Rawlsian accounts have considered the productive sphere. In particular, I am interested in uncovering the role they assign to productive concerns within the fully functioning ideal of a well-ordered society, and what the consequences of this are for immediate efforts at reform. As I noted in Chapter 1, a particular line of criticism of liberal egalitarian justice is that it has often been surprisingly quiet upon concerns surrounding employment. This relative silence is, I have suggested, partly attributable to the form of ideal theorising typically pursued by liberal egalitarian thinkers. Indeed, it is quite possible to argue for the total subordination of employment as issue to concerns with fair distribution. If background justice is secured and a just distribution of resources maintained, then labour market and employment concerns would be diminished and would perhaps disappear completely. I referred to this as the distributive account of market activity, but argued that, on its own, this account provides inadequate guidance for reform of current institutions.

However, recent years have seen a notable upsurge in attention to the implications of a Rawlsian account of justice for the organisation of productive labour, with a number of commentators suggesting that specific requirements relating to working practices may be owed to individuals as a demand of justice. For instance, people may be owed work of a certain character, or that working relationships take a particular form. In §5.1, I outline a range of claims for the provision concerns such as meaningful work and workplace democracy as vital components of a liberal egalitarian account of justice, assessing attempts to locate these claims as components of a set of basic liberties, as being required as part of the package of primary goods or as being part of the institutional conditions that make a well-ordered society a stable possibility.

I then continue (§5.2) by evaluating these suggestions, outlining a number of key problems that they face. I offer an internal critique based upon the precepts of
Rawlsian theory in order to argue that, in respect to current working practices, their attempts to evaluate the content of working procedures are hard to sustain, as they seem reliant upon overly determinate ideas of human flourishing. Yet, without this content, I will argue that all that remains is a slightly more developed version of the account criticised in Chapter 1, where productive concerns are subsumed within concerns for fair distribution. As a result, I suggest these accounts remain inadequate at identifying the most pressing cases for reform of current circumstances.

In the light of the highlighted issues with existing Rawlsian perspectives on the productive sector, I develop (§5.3) an alternative account. Rather than squarely focussing on the effects of work upon an individual, this will instead suggest that we examine how working practices affect the social background and shape attitudes and expectations. Where working conditions serve to undermine the basic assumptions of Rawlsian justice – that persons be considered as free and equal citizens engaged in a societal system of fair cooperation – I argue they ought to be reformed. In this regard, a concern for working practices is located not as a component part of justice as fairness, but rather as, in a sense, being prior to it – a necessary precursor to the wider realisation of just institutions.

5.1 Rawls and the workplace

One interpretation of what Rawls’ theory of justice requires in relation to productive processes would be to claim that he is simply reliant upon a position such as the distributive account outlined in Chapter 1, wherein productive concerns are subsumed within the larger aim of ensuring distributive fairness. As a result, market coordination should be constrained where this would advance the cause of the worst-off but, beyond this, may be justified on account of the productive gains it enables. There is good reason to believe things are not as simple as this, however. Within Rawls’ work itself there are a few clues that he was deeply concerned about the productive sphere. In concluding his response to Marx in *Justice as Fairness*, Rawls gives consideration to the question of democracy in the workplace. Although giving no fixed and conclusive answers, he does quote with approval Mill’s idea of worker-managed firms and notes that questions about the manner of productive organisation “call for careful
examination”, as “the long-run prospects of a just constitutional regime may depend on them.” In recent years, a number of theorists have begun to respond to this call, attempting to locate the need for specific demands regarding the sphere of productive employment within a framework of Rawlsian liberal egalitarian justice.

In addressing themselves to the question of what liberal egalitarian justice might require within the sphere of productive employment, Rawlsian theorists have typically focussed attention upon two separate issues. Firstly, in regard to the content of work, there are worries that the practically beneficial division of work processes into a number of small discrete tasks will result in a situation in which many workers are required to undertake work that is highly repetitive, providing no real chance for them to exercise their minds or to develop a skilled appreciation of their role. In response, it can be claimed, a theory of justice may need to offer the opportunity for meaningful work of a character that engages individual faculties in a fruitful manner. Secondly, organisational concerns regarding the hierarchical structure and concentrated private ownership of firms have been called into question. Reform of the structure or ownership of firms, including the possibility of instituting some level democracy in the workplace, has been proposed as a means to answer such concerns.

In addition to the varied proposed means for redress of unjust features within production, there has also been some divergence as to the most appropriate method of locating these concerns within Rawls’ ideas. One approach has been to suggest that the stability of a well-ordered society may depend upon the institution of some measure of workplace democracy. Perhaps the most common approach has been to suggest that the difference principle must apply to the full range of primary goods beyond income and wealth, which would require a broader concern for social institutions. Before turning attention to these two approaches, I first examine an attempt to suggest that a concern for work might be situated in relation to Rawls’ first principle of justice, and so ought to be provided as a constitutional essential.

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5.1.1 Work and the basic liberties

In his assessment of the significance of basic liberties, Rawls makes the claim that their importance rests upon their contribution to the exercise of the two moral powers of citizens: the capacity for a sense of justice and the capacity to form, revise and pursue a conception of the good. Those liberties that are regarded as essential for producing conditions in both the public and private spheres suited to the development and exercise of these powers – political liberties, freedom of conscience and association – are to be valued and protected above all other societal considerations. One argument, outlined by Martin O’Neill, supports the view that the facility of being able to participate in decision making in the workplace would also be of sufficient significance to be considered worthy of inclusion within a scheme of basic liberties.

For instance, O’Neill suggests that, “unless individuals have some first-hand experience in the deliberative direction of some collective enterprise (such as a firm), then they will lack the skills that will be needed in order to participate fully in “the free use of public reason” in democratic politics.”2 We can see such a dynamic already present in today’s political situation, with a background in the administration or control of a public or private enterprise being considered a major advantage in qualifying a candidate for high office. If looking for an egalitarian broadening of access to political power, this argument suggests one way to attain it would be to guarantee as many opportunities as possible for the everyday exercise of the requisite skills and capacities, with the workplace an obvious target for reform.

But it is not just in relation to the political sphere that O’Neill thinks a case may be made for the inclusion of working rights within the basic liberties. He also thinks there may be work-related concerns associated with each individual’s ability to pursue their own plan of life. “If individuals spend their working week in institutions that treat them as mere functionaries within a rigid hierarchy, then there is a risk of their capacities for autonomous self-direction atrophying, or becoming stunted.”3 Changing

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3 Ibid. p.36.
the structure of working relationships or the content of work may prevent such negative impacts upon the capacity for individual self-direction and may also allow individuals greater scope for considering their work as part of their own rational plans of life.

The appeal of such an argument for any theorist interested in advancing the cause of justice in the workplace is obvious – if the basic liberties could demonstrably be shown to include a concern for certain kinds of workplace structure or work content, then it would mandate that this be provided to citizens as a constitutional essential. Yet, although attractive, even O’Neill seems to doubt that such concerns can be conclusively proven.\(^4\) For, it could easily be argued that, although work may allow scope for the development and exercise of the two moral powers, there may exist sufficient opportunities for their exercise outside the productive sector that guarantees of workplace democracy (or similar) cannot be sustained. Therefore, the claim for the such an extensive guarantee for working concerns to be counted as basic liberties remains a doubtful one.

### 5.1.2 Work and the primary goods

The distributive account of justice in production outlined in Chapter 1 relies on the premise that working terms and conditions will be fair when the respective parties bargaining over those terms are relatively equally situated, and that this might be achieved via a more egalitarian distribution of income and wealth. As a result, any egalitarian distributive principle (such as, for instance, the difference principle) will be likely to aid fairness in the productive sphere. But, for those who wish to see a more explicit Rawlsian focus upon the workplace, one possibility is to argue for a broader set of distributive concerns, suggesting that the difference principle should not simply be regarded as ranging over inequalities of income and wealth, but instead over the full list of primary goods. Hence, an assessment of how work might impact upon each individual’s access to these vital goods has been key to attempts to explicate a more overt productive concern in Rawls’ work.

\(^4\) “Although there is a strong prima facie case for the Fundamental Liberties argument… it should be admitted that this case may well not be decisive.” Ibid. p.41.
Of the five kinds of primary good outlined by Rawls, two have attracted significant attention in respect to working conditions: powers and prerogatives of offices and positions of responsibility; and the social bases of self-respect. The latter good is the focus of attention for Jeffrey Moriarty, who argues that there is a clear link between opportunities for meaningful work and self-respect. For Rawls, self-respect is comprised of two predominant elements: a sense of value or self-worth, particularly in regard to the worth of one’s plans; and a confidence that the fulfilment of these plans is within one’s ability. But, such an attitude is not simply an individual possession. It must be rooted in a particular type of social background that supports the requisite sense of self-worth:

It normally suffices that for each person there is some association (one or more) to which he belongs and within which the activities that are rational for him are publicly affirmed by others. In this way we acquire a sense that what we do in everyday life is worthwhile. Moreover, associative ties strengthen the second aspect of self-esteem, since they tend to reduce the likelihood of failure and to provide support against the sense of self-doubt when mishaps occur. To be sure, men have varying capacities and abilities... but in a well-ordered society anyway, there are a variety of communities and associations, and the members of each have their own ideals appropriately matched to their aspirations and talents.

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5 The full list of primary goods is:
a) basic rights and liberties, themselves given by a list;
b) freedom of movement and free choice of occupation against a background of diverse opportunities;
c) powers and prerogatives of offices and positions of responsibility in the political and economic institutions of the basic structure;
d) income and wealth;
e) the social bases of self-respect.


7 Rawls. Theory. p.441.
Hence, the primary good for Rawls is not self-respect \textit{per se}, but rather the social background conditions that will effectively support and nurture it. What the above quote also brings out is that, at least within \textit{A Theory of Justice}, Rawls saw one principle base of self-respect as being the availability of a range of different associational possibilities, such that each individual would be able to locate suitable support for the value of their own plans. As a result, at this point, Rawls saw no need to make special provision for the workplace association.

However, Moriarty is keen to draw attention to indications of a perceived shift in Rawls’ thinking within his later work. The evidence for this comes in the introduction to the paperback edition of \textit{Political Liberalism}, where Rawls notes that the stability of a just regime requires an institutional guarantee that society act “as employer of last resort” since the lack of “the opportunity for meaningful work and occupation is… destructive of citizens’ self-respect”\textsuperscript{8}. This appears to offer a particular defence of the suggestion that work ought to be considered as a case apart from other associations, worthy of special consideration in the institutional design of a just society. Moriarty suggests that the logic behind such a claim would work in the following manner:

Given stable facts of economic life, many people must hold full-time jobs for many years. That is, people’s participation in work associations – i.e., some work association or other – is often mandatory and extensive. Moreover, work can be monotonous, routine, and “deadening to human thought and sensibility”. By contrast, people’s participation in non-work associations is usually optional and limited. The activities of some non-work associations will be boring to some, but they can be avoided, often entirely. When a person does participate extensively in a non-work association, it is usually by choice. We have little reason to worry that activities people freely choose to engage in will be “deadening to human thought and sensibility.”\textsuperscript{9}

\textsuperscript{8} Rawls. \textit{Political}. p.lvii

\textsuperscript{9} Moriarty. ‘Rawls.’ p.16. The quote “deadening to human thought and sensibility” is from Rawls. \textit{Theory}. p.546.
So, the near inevitability of some form of work means it cannot be so easily considered as a chosen component of an individual’s plan of life. Hence, it cannot be immediately presumed that work is wholly valued by the individual pursuing it. As a result, work whose content is monotonous, or is not perceived as valuable by others, may be a cause of diminished self-respect for the worker. An interest in the social bases of self-respect would therefore require that each individual have the chance of avoiding such deadening pursuits through the provision of opportunities for meaningful work.  

Moriarty is clear to note the limitations of this argument. In particular, it is contingent upon the following facts relating to work: “many people’s participation in work associations is mandatory and extensive, work can be monotonous and routine, and work of this nature negatively affects self-respect.” If any of these facts did not obtain, there would seem little cause for privileging the workplace association as a particular concern within a liberal theory of justice. Yet, in Moriarty’s opinion, there is certainly credible evidence that each of these factors can be maintained.

An alternative perspective that also appeals to the primary goods as a source for a concern with work is presented by Samuel Arnold. Rather than focussing upon the social bases of self-respect, he instead turns to the “strangely neglected and poorly understood” good of powers and prerogatives of offices and positions of responsibility in the political and economic institutions of the basic structure.

In his assessment of the logic behind the inclusion of this particular good, Arnold attempts to draw a parallel between it and Rawls’ treatment of self-respect, noting that any attempt to treat an internal attitude as a primary good to be distributed is unworkable. Hence, rather than focussing directly upon favourable attitudes and
capacities, Rawls must instead focus upon the aspects of the social world through which they would be cultivated. This is why it is the social bases of self-respect that is a primary good rather than self-respect itself. Arnold argues that we should also interpret powers and prerogatives of office in the same manner, as indicative of a particular pattern of argument in Rawls’ work:

First, identify an internal resource: an attitude, capacity, or aspect of personality that significantly facilitates agency, and thus is attractive to citizens in light of their fundamental interest in being able to accomplish whatever ends they happen to have. Next, inquire into the social bases of this internal resource. Is possession of this internal resource importantly connected with certain institutions, practices, or social conditions? If so, these social bases rightly belong on the list of primary goods.\textsuperscript{13}

The implication of this suggestion is that when considering powers and prerogatives of office, we must enquire as to the likely internal resources that they can be associated with, as this is what Rawls would truly want to promote.

In the light of this, Arnold points to Rawls brief comments on the reasoning behind the selection of powers and prerogatives of offices as being “needed to give scope to various self-governing and social capacities of the self.”\textsuperscript{14} Arnold takes this to be suggesting that Rawls is interested in providing each individual with their fullest possible share of the internal resources and capabilities of self-government and sociability, linking these to their cultivation or exercise within certain economic or political roles. Given what Arnold describes as the formative thesis – the notion that “work shapes personality” – then it may be argued that “it is at least plausible to suppose that jobs freighted with authority and responsibility cultivate social fluency and self-command.”\textsuperscript{15} This would then require that a Rawlsian well-ordered society would be concerned with the manner in which the organisation of work would impact

\textsuperscript{13} Ibid. p.4

\textsuperscript{14} Rawls. Political. p.308.

\textsuperscript{15} Arnold. ‘Difference’. p.6.
upon its citizens. If greater freedom and independence for workers, coupled with less
hierarchical organisational structures, would provide more opportunities for the
development of the necessary and beneficial social and self-governing capacities Rawls
identifies, then surely it would provide good grounds for a more explicit concern for
working conditions.

But Arnold wishes to go further than simply drawing attention to capacities for
self-governing and sociability, suggesting that Rawls’ account of powers and
prerogatives of office is “sound but incomplete.”\textsuperscript{16} In order to fill out this
incompleteness, Arnold also suggests we should include an explicit concern with the
content of work, favouring tasks containing sufficient complexity and variety to help
cultivate individual intelligence and virtuosity. He takes intelligence to refer to “the
ability to reason, to plan, to solve problems, to think abstractly, to comprehend ideas,
and to learn”, with virtuosity being defined as “skillfulness or cultivated aptitude.”\textsuperscript{17}
Since these are capacities that may be associated with “more effective agency”\textsuperscript{18}, then
Arnold thinks there is good reason why the Rawlsian state may wish to cultivate them,
and so suggests they may plausibly be incorporated into the primary good of the
powers and prerogatives of office. And, if this is the case, then a concern with both the
content and organisation of work would follow naturally from this particular primary
good.

5.1.3 \textit{Production in a property-owning democracy}

An alternative route to the one taken by Arnold and Moriarty is to suggest that, rather
than a specific component of Rawls’ theory motivating a concern for the productive
sphere, it is instead the balance of a range of factors that will require a certain form of
working relationship. In his later work, Rawls was keen to stress that the principles of
justice would not be adequately realised by a social and economic regime based upon
welfare state capitalism, favouring instead one characterised as a property-owning

\textsuperscript{16} Ibid. p.8.

\textsuperscript{17} Ibid.

\textsuperscript{18} Ibid.
democracy. For, the arrangements of a welfare state seek merely to mitigate against economic misfortune, yet may still allow inequalities to persist that would be sufficiently large to undermine the fair value of political liberties. Equally, the structure of a welfare state, with *ex post* redistributive transfers towards the less fortunate, may serve to damage the self-respect of recipients by placing them in a condition of dependency. In contrast, a property-owning democracy would aim to prevent excessive concentrations of wealth and would aim to give individuals a greater control over their lives via a greater share of productive capital.

As a result, most accounts of property-owning democracy assure some measure of control in the workplace as a core component. For example, Samuel Freeman writes of property-owning democracy that:

> Workers are not consigned to work for wages with no interest in their product. They have at least the opportunity to own and control the capital they use in the day-to-day exercise of their working capacities. Moreover, workers have increased control and protections in their workplaces.\(^{19}\)

There are, then, good grounds for thinking that property-owning democracy requires some element of workplace democracy and the opportunity for worker ownership of productive resources. Yet, Nien-hê Hsieh suggests that what is truly vital about property-owning democracy is that it will make individuals less dependent upon their labour for earnings, which will in turn allow them a more decisive stake in bargaining over terms and conditions of employment. As a result, he suggests that it will allow workers to be less subservient in their relations to employers and to give a greater consideration to the meaningful character of their work, defined by the extent it “requires the exercise of judgment, initiative, and intellect on the part of workers.”\(^{20}\) As a result, Hsieh argues that it is only via a consideration of both the structure and

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content of productive endeavour that we can make full sense of Rawls’ choice of property-owning democracy as the favoured social and economic system.  

5.1.4 Work and stability

Many arguments about the importance of work from a moral or ethical standpoint rest, to a greater or lesser degree, on what was identified above as the formative thesis: the basic claim that “work shapes personality.” For instance, statements to this effect can be located in the work of Adam Smith, Marx and Mill. It is an operative component of the claims examined above for considering a certain type or form or work as elements within the basic liberties or primary goods. Yet, it comes to the fore to an even greater extent within another strand of O’Neill’s argument for economic democracy. Rather than claiming that the internal capacities that may be affected by work are of such fundamental importance to individuals that they ought to be protected by legal guarantee, or supplied as a matter of course by the basic structure, this argument suggests instead that they may be required in order to secure the stable functioning of a well-ordered democracy.

As stated in §5.1.1, there is good reason to suggest that certain capacities that are highly useful for the exercise of democratic citizenship may be closely associated with the regular performance of certain types of productive endeavour. As a result, the predominant sectors or structures of work within a society may have a determining impact upon the prevalence or otherwise of these desirable attributes. The ongoing health and viability of democratic institutions within this society may then be linked to the structure of its working practices through their influence over the character of its citizens. This would then not make a concern with certain types of work a requirement


of justice, but would rather suggest it to be a necessary support, essential for the ongoing ability of a democratic system to function correctly.

5.2 Evaluating Rawlsian arguments for a concern with work

The above section outlined four basic routes that have been taken in linking a concern with employment to Rawlsian political philosophy. However, there are a number of problems with such accounts that prevent them from fully articulating a satisfactory account of workplace issues. Firstly, I raise some questions about one specific interpretation of certain aspects of Rawls’ ideas. Secondly, I suggest that the stronger positive claims that these arguments make seem at odds with later Rawlsian ideas as they rest upon overly determinate conceptions of human flourishing. I also provide some analysis of the interactions between the various primary goods, as a means to assess the success of arguments in favour of a concern with employment. In the light of this analysis, it appears there is a significant difficulty in supporting positive claims about the nature of production based upon elements of Rawls’ work. And, if these positive claims cannot be maintained, what remains is simply a slightly more developed version of the distributive account discussed above.

5.2.1 Interpretation of powers and prerogatives of office

One point worthy of comment is why, if the resources have always been present within Rawls’ work, it is only in recent years that a direct concern with working practices has come to generate significant attention? One response to this might be to query whether Rawls’ work can actually sustain the claims that are being made above. Did Rawls intend his work to have such far reaching implications for the productive sector, or do the accounts above include misreadings of his ideas? I argue that there is one instance where the latter is the case.

This is in regard to Arnold’s treatment of the primary good of powers and prerogatives of office. Recall that Arnold characterises this as referring to the “social bases of the internal resources of social and self-governing capacities, namely, positions of authority and responsibility.”

In making this interpretation of this good, he

explicitly rejects an alternative account provided by Samuel Freeman, who instead characterises the powers under discussion as:

the legal and institutional abilities and prerogatives that attend offices and social positions… Members of various professions and trades have institutional powers that are characteristic of their profession and which are necessary if they are to carry out their respective roles. Physicians, lawyers, teachers, electricians, plumbers, accountants, stock brokers, and so on, are all trained and authorized to carry out certain social and economic functions. To do so they need certain legal and institutional powers or capabilities.\(^{26}\)

This definition is rather more functional than that offered by Arnold, making no reference to internal capacities. It would appear harder to motivate a general concern for working practices from the primary good of powers and prerogatives of office were this to be its meaning.

Arnold’s argument against this view is to refer to Rawls’ supporting reasons for the inclusion of this particular good within the index of primary goods, that it is “needed to give scope to various self-governing and social capacities of the self.”\(^{27}\) Freeman’s interpretation, Arnold concludes, is too broad, for if such powers can be counted as primary goods “if and only if they are among the social bases of the internal resources of social and self-governing capacities”\(^{28}\), then many of the powers Freeman lists would not be relevant for inclusion. Indeed, Arnold notes that, on Freeman’s account, there seems little reason to exclude the powers associated with “pedestrian economic offices”\(^{29}\) such as a food preparer at a fast food restaurant from consideration.

But, there is good reason to suppose that it is Freeman’s interpretation that is actually more easily sustained. Rawls’ argument is not that such powers are only

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\(^{27}\) Rawls. *Political*. p.308.


\(^{29}\) Ibid. p.7.
valuable to the extent that they contribute to social and self-governing capacities, but rather that the existence of powers and prerogatives gives scope for the exercise and development of these capacities. The general ability of people within certain positions to have the legal and institutional support to fulfil their role will enable the social value of the role in question to be realised, while also aiding the development of desirable internal attributes for their possessor. The fact that certain of the specific powers may make a less significant contribution to these two aims does not seem reason to exclude them from consideration. Hence, although certainly lesser than those associated with lawyers or teachers, there is still good reason to factor the powers possessed by a food preparer in a fast food restaurant into a consideration of the bundle of primary goods possessed by their holder. If a worker had to seek authorisation from a supervisor every time they wished to remove a pizza from the oven, or flip a burger on the grill, they would both struggle to perform their role effectively and struggle to develop their own capacities for decision-making. Now, this interpretation is not necessarily damaging to Arnold’s account, as it may be the case that the powers of such an office could easily be increased in restructuring the food preparer’s workplace so as to expand and vary their role. But whether such an intense focus on workplace considerations can be supported by Rawls’ position remains a pertinent issue, one to which I now turn.

5.2.2 The risk of perfectionism

As indicated above, many of the arguments advanced in §5.1 rely on formative claims about the effect of work upon the individual character and personality. In this, they suggest that certain forms of work may dull capacities that are central to individual self-realisation or healthy social functioning. In this, they advance certain claims about desirable human characteristics or valuable capabilities. For an understanding of social life based upon perfectionist claims of fundamental human value, approaching working conditions with a view to their compatibility with human flourishing would be of little concern. There would be no trouble in advancing claims for meaningful work if this could be done simply by assessing the relation between working practices
and intrinsically valuable human capacities. However, for approaches based upon Rawls’ work (at least, those who accept his arguments within Political Liberalism about the inevitability of reasonable pluralism within liberal society), this is not a viable option. Instead, such claims must rest upon reasoning that may be publicly endorsed by a range of reasonable worldviews, rather than resting upon claims based on a comprehensive account of the good. As a result, strong claims about work that rest upon controversial accounts of human psychology would seem hard to reconcile with Rawls’ later views.

One way in which this problem manifests itself is through according a far too great an importance to the sphere of work within a wider social account. O’Neill acknowledges as much in assessing the likely success of his fundamental liberties argument for economic democracy:

given that there are many other venues (such as in civil society and in private associations) within which people can develop and exercise their two moral powers in the two “fundamental cases,” one may plausibly deny that the provision of democratic control within the workplace is a necessary mechanism for even the “full and informed exercise” of those two moral powers.

So, placing a priority upon the productive sphere, or demanding that economic relations are arranged according to a single specific organising principle (such as a socialist collective ownership of productive means), would appear to overstep the Rawlsian insistence upon a political basis for claims of justice.

Meanwhile, although some citizens may have a vocational commitment to their job as a fundamental component of their conception of the good, it is by no means essential for this to be universal. Some may be happy to take on an undemanding occupational role, as it enables them more time to pursue activities outside of work. Others may be completely disinterested in the precise nature of the content of their work, happy to undertake it simply for the monetary reward it provides them. These

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30 See, for instance, Schwartz. ‘Meaningful’.

31 O’Neill. ‘Three’. p.41
perspectives do not seem to be *prima facie* unreasonable, yet they suggest a limit to the centrality to which any Rawlsian argument can focus to such an extent on the workplace.

A similar problem is faced in the treatment of primary goods, in that a risk presents itself that too great a substantive content becomes loaded into the description of particular goods. This gives an overly determinate direction to the theory – contrary to its overall intent. Rawls is quite clear that the aim of working with a list of primary goods is to remain within the limits of the political and the practicable, avoiding any judgement about the worth of specific capacities or pursuits:

Justice as fairness rejects the idea of comparing and maximising overall well-being in matters of political justice. Nor does it try to estimate the extent to which individuals succeed in advancing their way of life or to judge the intrinsic worth (or the perfectionist value) of their ends. When seen as rights, liberties, and opportunities, and as general all-purpose means, primary goods are clearly not anyone’s idea of the basic values of human life and must not be so understood, however essential their possession.32

Hence, it is clear that the content of the primary goods must be understood in a limited manner, one that avoids appeals to potentially controversial notions of value.

This casts doubt over some of the stronger claims made in regard to the potential for primary goods to provide a basis for significant reform of working conditions. For instance, in his assessment of the role of powers and prerogatives of office, Arnold suggests that fulfilling the role of “an executive may actually make one more charismatic, more persuasive, more socially able, more firmly in command of one’s self, and so on.”33 Even given Rawls stated concern that the good in question is required to give scope to social and self-governing capacities, Arnold’s outline of the link between job role and character seems dependent upon claims about certain excellences of character rather than all-purpose requirements. This becomes even more apparent when Arnold attempts to extend the demands of this good to also include a

32 Rawls. *Political*. p.188.

concern with intelligence and virtuosity, therefore providing the basis for a demand for complex work. This overreach would appear to lend further credence to the alternative view of this particular good (outlined above in §5.2.1). If we understand powers and prerogatives of office in more minimal terms as the simple ability to perform a role without needless obstruction or limitation, then we can make sense of its necessity for social and self-governing capacities without overloading it with substantive content.

Similarly, it seems notable that, in both Moriarty and Hsieh’s advocacy of the need for opportunities for meaningful work, almost all of the evidence they call upon from Rawls’ work is drawn from part three of A Theory of Justice – the section of said work that he later significantly moved away from. So, Moriarty draws upon Rawls’ suggestion that a person’s “plan of life will lack a certain attraction… if it fails to call upon his natural capacities in an interesting fashion”34, to support the claim that, in order to feed our self-respect, our work should also engage us in a similar manner. Likewise, Hsieh makes it clear that calls for meaningful work seem to rest on some notion of objective value:

Although the term “meaningful work” is sometimes used to refer to work that is meaningful with respect to an individual’s own point of view, most critics of capitalist work relations have in mind an objective conception of the term. Specifically, as discussed in the first section of this paper, they have in mind work that requires the exercise of judgment, initiative, and intellect on the part of workers.35

His reason for believing Rawls might also subscribe to such a view rests on the fact that Rawls was keen that economic conditions should be such that workers are not simply faced with a choice between various “monotonous and routine occupations which are deadening to human thought and sensibility”.36

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In both of these calls for the provision of meaningful work, much of the weight of justification appears to be borne by Rawls’ Aristotelian Principle, which suggests a natural inclination towards complex over simplistic activities. The question this raises is whether such claims can still be sustained by a political liberal perspective, or whether they are too reliant upon a comprehensive liberal account of valuable pursuits. One response to this worry might be to instead appeal to the account of the two moral powers, and so suggest that, although an appeal to the Aristotelian Principle itself may not be justifiable, any reasonable moral conception is likely to possess something similar upon which claims to meaningful work may be based. Yet, as suggested above in response to O’Neill’s appeals to the moral powers, even here there is a danger that an overly strong interpretation will include more comprehensive content than can be adequately justified.

But even if a Rawlsian framework could incorporate a concern for meaningful work, the further question arises as to the degree to which it must involve the exercise of valued capacities, and also whether an economic system in which all roles fulfil these requirements is a viable practical proposition. Indeed, Hsieh concedes that “there are certain kinds of work that are limited in how meaningful they can be and yet they remain essential for a well-functioning society.” Equally, Moriarty is careful to be consistent in claiming that it is only the opportunity for meaningful work that is required, rather than the direct provision of such positions to each employee. Yet, such concessions simply draw attention to the indeterminacy of notions of meaningful work where they are not anchored in an appeal to a determinate comprehensive good. So, at one extreme such appeals may mandate very little change, as it may be claimed that most monotonous or unpleasant roles are, by their nature, impossible to reform to make more meaningful, but could easily be avoided by any worker who was deeply averse to them. A far stronger interpretation of the meaningfulness criterion, however,

37 Interestingly, on occasion in his later work, Rawls seems himself to take a similar tactic as a means of avoiding direct appeals to the Aristotelian Principle. See, for example, Rawls. *Justice*. p.200 n.21.


39 Indeed, Moriarty suggests that this also helps evade the charge that a concern for meaningful work cannot be coherently squared with liberal neutrality. Moriarty. ‘Self-respect’. p.17.
would mandate widespread reform on the grounds of determinate appeal to ideas of value and human flourishing. This would be hard to reconcile with a non-comprehensive liberal stance.  

### 5.2.3 The problem of indexing

A consideration that relates to the above concerns is, even if it could be demonstrated that the primary goods of powers and prerogatives of office or the social bases of self-respect did require significant attention be paid to the workplace, there would still remain the question of the extent to which gains in these goods should count when balanced against the full range of social primary goods. This is what Rawls refers to as the index problem: if a gain in one good would require us to sacrifice some quantity of one of the other goods, then should this trade-off be taken? Just how are the different goods to be weighted in these circumstances? Would we take less income and wealth for a greater supply of the social bases of self-respect?

It should be noted that part of the rationale for Rawls to proceed with a restricted list of primary goods was precisely to ensure that comparisons between holdings did not require overly complex assessment procedures. Indeed, the design of Rawls’ principles helps to simplify calculations somewhat anyway. Given that basic rights and liberties are secured for all citizens by the first principle, there is no need to even consider trading them off against other goods. Similarly, access to job opportunities is considered prior to distributive concerns, so there is no need to consider how to balance them against other goods. This means that the only indexing issue is in dealing with the remaining three sets of social primary goods (powers and prerogatives of office, income and wealth, the social bases of self-respect). The claim behind attempts to attach a concern for work to one of these goods is that, in certain situations, there is a divergence among them such that a gain in one good can only come at the expense of a loss in another. Hence, the most beneficial outcome in terms

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40 Arnold advances a similarly critical appraisal of the notion of meaningful work, suggesting there is an “ineliminable subjectivity of concepts like “meaningful” or “interesting” work. Arguably such concepts make poor soil in which to root a distributive argument because what counts as meaningful or interesting work varies so widely from person to person.” Arnold. ‘Difference’. p.22.

of income and wealth need not necessarily be the most favourable situation in general terms and so there may be reason to reject the most economically beneficial forms of organisation if they are deficient on other counts.

The problem with any argument based on this sort of scenario is that it actually receives little support from Rawls’ own account of the primary goods. In regard to the distribution of the three remaining goods (once liberties and opportunities have been accounted for), Rawls is keen to downplay the indexing problem, suggesting that it should be fine to take individuals “as specified by... levels of income and wealth”, since:

these primary social goods are sufficiently correlated with those of power and authority to avoid an index problem. That is, I suppose that those with greater political authority, say, or those higher in institutional forms, are in general better off in other respects. On the whole, this assumption seems safe enough for our purposes.42

If each citizen is provided with equal basic liberties and fair equality of opportunity, then Rawls appears to suggest that it is fine for the difference principle to simply refer to the distribution of income and wealth, rather than to require a weighted index of the remaining goods.43

It may be noted that, in the above quote, Rawls is only drawing a parallel between income and wealth and power and authority, but does not mention self-respect. So, could it be that the case of self-respect will still merit particular consideration, as Moriarty suggests? However, again, Rawls does not appear to view self-respect as wholly independent of the other primary goods, but rather as closely related to other goods, in particular to the basic liberties. As Moriarty notes, within A Theory of Justice, “income share and liberty are the only candidates Rawls explicitly

42 Rawls. Theory. p.97. See also Rawls. Justice. p.59. n.26: “the individuals who belong to the least advantaged group are not identifiable apart from, or independently of, their income and wealth.”

43 Of course, the above quote does not rule out the possibility of a divergence between goods, but certainly suggests this is likely to be the exception rather than a common occurrence.
considers as bases of self-respect”\footnote{Moriarty. ‘Self-respect’. p.4.}, rejecting the former, as it would create intense competition and a deep inequality of status. Instead, Rawls wishes to advocate a conception of justice that “seeks to eliminate the significance of relative social and economic advantages as support for men’s self-confidence”, which means, “it is the status of equal citizenship for all”\footnote{Rawls. \textit{Theory}. p.545.} secured by the equal division of the basic liberties on which self-respect is most firmly based.

Still, Moriarty quite rightly notes that this does not mean that the social bases of self-respect can simply be equated with the basic liberties. Instead, “self-respect is further strengthened and supported by the fair value of the political liberties and the difference principle.”\footnote{Rawls. \textit{Political}. p.318.} Yet there is little here to suggest that equal basic liberties, coupled with a fair distribution of income and wealth will not be sufficient to secure the social bases of self-respect. As a result, Rawls’ account of self-respect itself provides little in the way of support for Moriarty’s claim that the opportunity for meaningful work must be considered as something owed as part of the social primary goods. The one potential point of confirmation comes with Rawls’ basic outline of some of the institutions that might be required to maintain the stability of a well-ordered society, in which he suggests that:

Society [act] as employer of last resort through general or local government, or other social and economic policies. Lacking a sense of long-term security and the opportunity for meaningful work and occupation is not only destructive of citizens’ self-respect but of their sense that they are members of society and not simply caught in it. This leads to self-hatred, bitterness, and resentment.\footnote{Ibid. p.lvii.}

But, given the lack of corroborating evidence elsewhere in his account, there is little to suggest that Rawls intends this to imply an objective concern for the content of work of the kind that Moriarty wishes to advance. An alternative interpretation of this

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\begin{itemize}
  \item \footnote{Moriarty. ‘Self-respect’. p.4.}
  \item \footnote{Rawls. \textit{Theory}. p.545.}
  \item \footnote{Rawls. \textit{Political}. p.318.}
  \item \footnote{Ibid. p.lvii.}
\end{itemize}
suggestion would be that it indicates a concern that each citizen is able to find employment and so feel that they are fulfilling their role as contributors to society.\footnote{Moriarty does consider this alternative, but dismisses it on the grounds that “[w]ork that makes a contribution to society need not be meaningful in Rawls’s sense”. Yet, as demonstrated in §5.3.2, there is no reason to hold that Rawls places such stringent demands of meaning upon work that he would object to workers making non-complex contributions such as “painting lane markers on highways, collecting tolls, or bolting wheels onto cars.” As a result, Moriarty’s response seems question-begging. Moriarty. ‘Self-Respect’. pp.15-6} Although such an account may be capable of supporting a consideration with productive organisation and practices, it seems that this would be limited to securing the opportunity for participation within employment on terms beyond mere drudgery, rather than a requirement that the more expansive account of meaningful work be satisfied.

5.2.4 Summary

How, then, are we to assess these Rawlsian accounts of the workplace, given the concerns highlighted above? I argue that none of the above factors provide decisive evidence against the claim that Rawls’ work ought to support a concern for production within its evaluation of social institutions. However, I have demonstrated that some of the stronger claims made in the above accounts do not find adequate support from a full and considered assessment of Rawls’ ideas. In particular, the expansive claims about the manner in which work affects character are hard to reconcile with a commitment to avoiding perfectionist views. As a result, a Rawlsian argument for meaningful work – if understood as a requirement for the provision of work of a certain complexity and variety – is extremely hard to sustain. It may still be possible to maintain a concern with the character-shaping aspects of work, but this would appear more promising if based upon a less demanding standard, one aimed at ensuring that work does not impede character development in ways that would undermine the conditions necessary for a just regime to be stable.

Where the claims concerning the productive sphere seem strongest is in highlighting the relationship between reform in the workplace and the overall aim of developing the social and economic scheme based around the idea of a property-
owning democracy. This, rather than making specific demands in terms of what justice requires in regard to employment, instead makes it clear that a reformed productive sphere would be a necessary and significant component of any package of institutional arrangements that could meet the requirements of Rawlsian justice.

Yet, what is interesting about what remains, once the more substantive demands of the positions I have considered are stripped away, is the degree to which they resemble the simple distributive account outlined in Chapter 1. In the actual social outcomes suggested, there is little in the way of direct concern or provision for working relations. Rather, it is hoped that the improved bargaining positions secured by a reformed set of background institutions – one that ensures a wider spread of resources – will, in turn, translate into improved employment relations. This indirect concern for working practices can be seen, for instance, in Arnold’s concluding recommendations:

Better for the state to promote a just distribution of [powers and prerogatives of office] indirectly by addressing background conditions that generate problematic occupational inequality. Arguably, work is so bad for so many for two fundamental reasons: workers do not demand better work; nor, if they did, would such demands be effective because workers are so weak relative to their employers. This diagnosis suggests a twofold cure: awaken worker interest in non-pecuniary aspects of work while simultaneously improving workers’ bargaining position. Rawls’s “property-owning democracy” incorporates both aspects of this cure.49

Yet, as I have shown above, even such a modest positive task as “awaken[ing] worker interest in non-pecuniary aspects of work” may be difficult to support on Rawlsian grounds. As a result, the likelihood is that its concerns with work are likely to become almost wholly tied into the distributive elements of the institutions of a property-owning democracy.

The problem with the situation is that it fails to evade the issue initially set out in Chapter 1: we are little closer to an understanding of when specific terms or forms of

employment are to be regarded as unacceptable. The work discussed in this chapter may make it clear that a concern for some combination of self-respect, individual character and the exercise of the two moral powers means that Rawlsians should not be unconcerned with working relations, yet it is unable to decisively spell out when and how this concern becomes operative without relying upon controversial perfectionist claims. This undermines their ability to provide significant content or to inform responses to ongoing injustices in the productive sphere. The question then arises as to whether there is any way to avoid this problem, to be able to provide a Rawlsian account of justice in production that does not depend upon a determinate account of human flourishing and yet is still able to assist us in identifying unacceptable workplace practices? I believe this question can be answered in the affirmative, and will now give an indication of how I think it may be achieved.

5.3 Production and social norms

In the above account, I have suggested that attempts to develop a Rawlsian account of the workplace are unable to demonstrate clear support for the specific determinate claims they make, and so remain too general and abstract to inform an ongoing concern with conditions of production. Part of the reason for this is that most of the positive claims that are made are focussed too squarely on the effects of work upon the individual. In contrast, I argue that the more appropriate concern is how working relations impact upon wider social relations. That is, how does the performance of certain tasks in certain conditions shape the way citizens relate to themselves and to others. Undoubtedly, this is a concern that is related to self-respect and to the shaping of character, yet these are not the prime focus of consideration, and hence it will be easier to avoid overly specific claims about human flourishing.

To illustrate the dynamic of the sort of effects I am referring to, I consider some specific details of the features of the sort of law-wage, low-skilled workplace that may be a target for reform. In her classic study, *Nickel and Dimed*, Barbara Ehrenreich recounts her experiences working in a range of roles within the low-wage sector, such as waitressing, cleaning and retail sales. In assessing her overall experience of such

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positions she notes the physical demands, the monetary pressures and the general lack of attractive terms and conditions of such work. Yet, she also narrates of the “psychological toll” exerted by the general manner in which she was treated:

If you are treated as an untrustworthy person – a potential slacker, drug addict, or thief – you may begin to feel less trustworthy yourself. If you are constantly reminded of your lowly position in the social hierarchy, whether by individual managers or by a plethora of impersonal rules, you begin to accept that unfortunate status.\textsuperscript{51}

An adaption process that she suggests has an ongoing affect upon the overall standards within the low-wage sector:

My guess is that the indignities imposed on so many low-wage workers – the drug tests, the constant surveillance, being “reamed-out” by managers – are part of what keeps wages low. If you’re made to feel unworthy enough, you may come to think that what you’re paid is what you are actually worth.\textsuperscript{52}

Yet – and here it becomes clear why this is not adequately theorised by focussing simply on the effects of such work on the individual worker – it may not simply be those working at the bottom whose perception is altered, but also those further up the employment hierarchy. As a result, they may come to “fear and mistrust the category of people from which they recruit their workers”\textsuperscript{53}, and so come to believe that ongoing cooperation from their workers requires further surveillance and control. Hence, there develops a “vicious cycle” that supports “not just an economy but a culture of extreme inequality.”\textsuperscript{54}

The above suggests an alternative manner in which we might consider the relation of working relations to Rawls’ work. Rather than attempting to locate a concern with work with a specific component of his work, we should instead consider


\textsuperscript{52} Ibid. p.211.

\textsuperscript{53} Ibid. p.212.

\textsuperscript{54} Ibid.
a concern for employment to be in some way prior to the attempt to apply just principles. For, the implementation of Rawls’ theory requires the acceptance of the basic assumption of society as a fair system of cooperation over time between persons conceived as free and equal – ideas that seem to be undermined by some working practices and working arrangements. As a result, support for the implementation of just institutions may be obstructed by the ongoing presence of particular working practices. Where such an obstruction could be demonstrated, we would have good reason to press for reform to the practice that sustains it.

One effective Rawlsian response to the productive sphere may thus be stated in the following manner: where working relations or practices support social norms that contradict the idea of persons as free and equal cooperating members of society, they ought to be reformed. This formulation remains wholly political, in the manner of Rawls’ later work, avoiding the dangers of perfectionist claims. This response is also capable of identifying specific targets for reform, without simply relying upon the wider development of fair distributive mechanisms.

5.4 Conclusion

In this chapter, I have assessed a range of attempts to extend Rawls’ account beyond a simple concern with fair distributive bargaining conditions in order to give more determinate content to the requirements of justice as fairness in relation to productive employment. I have argued, however, that much of this content cannot be reconciled with a political liberal desire to remain neutral of claims based upon comprehensive worldviews. Instead, I have suggested that a more appropriate focus for assessments of production relates to the manner in which they impact upon the attitudes and expectations necessary for establishing and maintaining a just social order. Given my contention within Chapter 4, that the character of employment relationships are shaped in important ways by the wider structure of market relations, this therefore necessitates a particular focus upon how the operation of labour markets shapes both productive relations and the aims and attitudes of participants. This is a task I will turn to in the following chapter.
Chapter 6: Employment and Behavioural Expectations

My claim in the previous chapter was that liberal egalitarians should be concerned with working practices to the extent that they shape norms and expectations in ways that undermine the basic assumptions upon which fair social cooperation rests. I now outline in more detail how this particular process might occur, before proceeding to specify some of the kinds of activity this account would seek to call into question.

The basis for this argument is that even the seemingly minimal assumptions of later Rawlsian theory may not find widespread assent within the populace at large. But this is not due to their unacceptability as precepts – few would assert that they are controversial on normative grounds. Rather, even those persons convinced of the desirability of such concerns, will hold a degree of scepticism on the grounds that they think it unlikely that other people will comply with all that such assumptions entail. Thus, the likely claim that might be encountered is not that these assumptions are controversial or unattractive, but rather that they are unfeasible due to the character and propensities of other persons. This suggests that expected behaviour may prove to exercise a significant constraint upon the perceived political feasibility of certain types of cooperative social scheme.

I begin (§6.1) by developing an account of social norms that stresses the degree to which compliance is conditional upon the expected behaviour of others. This account will be developed to show how, if widely accepted or used as a basis for institutional design, theoretical models may be capable of encouraging behaviour to converge upon their predictions. This then leads (§6.2) to the scrutiny of one model of human motivation and behaviour often used as a basis for modelling market interaction – the rational agent of economic theory, sometimes referred to as homo economicus. I cast significant doubt over both the accuracy and normative desirability of this model, leading to the suggestion that we ought to be cautious of employing this

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1 These being (i) that society should be considered as a fair system of cooperation over time and (ii) that citizens should be regarded as free and equal persons. Rawls. Political. §3 & §5.
model in contexts beyond those attempts to account for behaviour within anonymous market transactions.

As a result of these concerns, I direct attention (§6.3) towards the use of the *homo economicus* model as a basis for characterising the relationship between employer and employee. If parties to the employment relationship are conceived of in these terms, then there arises a significant principal-agent problem. I argue (§6.4) that attempts to manage this problem will be likely to reinforce the behavioural assumptions upon which they are based, by placing a high importance on extrinsic motivational factors and the need for control of employees by their employer. This not only undermines the perceived feasibility of more extensive schemes of social cooperation, but also serves to shape social and economic institutions in ways that should be of concern for those committed to liberal egalitarian values.

### 6.1 Social norms and social understanding

The central claim around which my argument is based is that there is a close relationship between institutional arrangements and the attitudes of those who live under them. As a result, current institutional forms may exert a constraint upon the types of political action thought possible. This point is acknowledged by Rawls himself in his assessment of the importance of the basic structure:

Now everyone recognizes that the institutional form of society affects its members and determines in large part the kind of persons they are. The social structure also limits people’s ambitions and hopes in different ways; for they will with reason view themselves in part according to their position in it and take account of the means and opportunities they can realistically expect. So an economic regime, say, is not only an institutional scheme for satisfying existing desires and aspirations but a way of fashioning desires and aspirations in the future. More generally, the basic structure shapes the way the social system produces and reproduces over time a certain form of culture shared by persons with certain conceptions of their good.²

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² Ibid. p.269. See also Rawls. *Theory*. Ch.8.
However, the above suggests that Rawls sees the ability of institutional forms to influence attitudes as primarily focused upon each individual’s perception of their own ends and opportunities, and their place within the social order. Yet, I contend that there is an additional element to the relationship between institutions and individuals that is not considered here by Rawls. This is the way in which institutions shape individual expectations of the likely behaviour of others and how this, in turn, affects their perceptions of appropriate actions and behaviour. Firstly, I outline this case by (§6.1.1) providing an account of social norms that stresses the reciprocal nature of the obligations they impose, before describing (§6.1.2) how on this account it is possible for social theories to become self-fulfilling through the mechanism of institutional design. This would then give us powerful reasons to be concerned with the assumptions underlying the design of our social and economic institutions.

6.1.1 Social norms as practices of reciprocal obligation

Although regular appeal is made to the concept of social norms within the social sciences, it is often deployed in a rather vague manner, with little detail regarding their precise structure and operation. One of the most sophisticated and detailed accounts of these issues has been provided by Cristina Bicchieri in *The Grammar of Society*. This provided the basis for the account of norm following used by Gerald Gaus, as outlined previously in §3.3.2. Bicchieri’s analysis suggests that for a social norm to be followed within a particular population, it is not simply a case of people accepting its validity. Instead, she suggests that there are three conditions for norm adherence: an individual must not simply i) recognise that a rule applies and ii) accept its normative authority, but also must iii) expect that others will also conform to the rule.

This means, for shared social norms, the importance of private conscience and personal normative belief is somewhat reduced. However, Bicchieri does not completely side-line the importance of personal judgements, drawing a distinction between social norms (where adherence is conditional) and moral norms (to which commitment is unconditional). So, while adherence to speed limits on motorways may be dependent upon the degree of compliance by other drivers, or the stringency of

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3 Bicchieri. *Grammar*. 
their enforcement, an ethical vegetarian would continue to abstain from eating meat even if this behaviour was followed by none of her peers. We may, then, be prompted to ask whether commitments to fair social institutions belong with norms associated with the former or the latter category. Bicchieri suggests that they fall somewhere between the two, but should perhaps be regarded as closer to social rather than moral norms:

What distinguishes norms of justice from other social norms is that many of us would have a conditional preference because we acknowledge that the normative expectations expressed... are legitimate and should therefore be satisfied. Their legitimacy may stem from recognizing how important it is for the good functioning of our society to have such norms, but of course their ongoing value depends on widespread conformity. There is nothing inherently good in our fairness norms, above and beyond their role in regulating our ways of allocating and distributing goods and privileges according to the basic structure of our society. However, many of us would feel that there is something inherently bad in taking a life.⁴

There is an importantly collective aspect to the fulfilment of norms of justice that distinguishes them from purely moral norms and suggests they ought to be considered in conditional terms. For, their success depends upon the cooperative participation of a significant subset of the overall population, and the ongoing commitment of this subset would likely be dependent on the numbers of non-compliers. Hence the logic of the famous free rider problem: the greater the numbers who take advantage of the lack of ticket barriers and ticket inspectors to ride on a public transportation system for free, the higher the ticket cost becomes for those who continue to purchase a ticket. Even for those highly committed to the success of the system, there may well come a point when a combination of the ease and normality of free riding, coupled with the extreme cost of a ticket will lead them to consider avoiding being taken for a sucker in paying their fare.

⁴ Ibid. p.21. Of course, the suggestion that there is nothing inherently good in fairness norms is certainly open to dispute.
If we conclude from this that it is indeed correct to view compliance with fairness norms as conditional then, as Gerald Gaus notes, there are two ways in which we could interpret this conditionality. One would be to consider our compliance in terms of a rational calculation, that we would be inclined to follow norms when we are able to perceive them as mutually beneficial in a way that will aid us. Yet, it seems hard to conceive of how, on this understanding, compliance with rules will be stable and enduring: if our conformity is due to an expected benefit, it is highly likely that there will be occasions when we would receive greater benefit from breaking rules and free riding on the efforts of others, undermining our reasons for obedience. The alternative interpretation would be to regard such fairness norms as being based on practices of reciprocal obligation. This would imply that fairness norms cannot exist if they are not followed, or if people think it highly unlikely that others will do their part in upholding and following them. In this respect, an individual’s attitude towards the viability of fairness norms will not simply be considered in normative terms, but rather will be conditioned by their expectations of the likely ongoing behaviour of others. As I will now go on to demonstrate, this dynamic gives us good reason to scrutinise the motivational assumptions made by social theories and the manner in which they are employed within institutional designs.

6.1.2 Social theory, social norms and the design of institutions
The above suggests that individual compliance with norms of fairness will be conditional upon the predicted behaviour of others. However, I also wish to suggest a further, related, dynamic involving the relationship between theoretical understanding and modelling of social relationships and the ongoing adherence to social norms. This is to suggest that social theories may, rather than simply describing and modelling human behaviour, instead also have an influence over future changes to this behaviour.

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— they may, to an extent, become self-fulfilling by encouraging a convergence upon the patterns of behaviour they predict.\(^7\)

As the focus of this chapter is upon the influence of markets upon employment relations and the attitudes of their participants, the most obvious target for assessment would be the theoretical assumptions of economics. Indeed, it may also be said that, of all the social sciences, economics has perhaps had the most influence in matters of institutional design. Further to this, the widespread pre-eminence of some of its behavioural assumptions, such as the conception of individual agents as rational self-interested maximisers, has extended into other disciplines. In regard to the importance of expectations in conditioning social norms, I wish to argue that the widespread employment of particular models of expected behaviour may, instead of simply reflecting reality in a neutral manner, actually encourage convergence upon the types of behaviour that is predicted.

An example that illustrates this phenomenon may be found in the world of derivatives trading, in a case study of the Chicago Board Options Exchange (CBOE) provided by Donald MacKenzie and Yuval Millo.\(^8\) They assess the development of the CBOE — the first exchange based upon trading of standardised, listed stock options — in the period that followed its establishment in 1973. In particular, they seek to assess the relationship between the prices of traded options and the development within financial economics of an enormously influential pricing model by Fischer Black and Myron Scholes.\(^9\) This formula provided a means to calculate the price of an option over time,

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\(^9\) This formula was originally outlined in Fischer Black and Myron Scholes. ‘The Pricing of Options and Corporate Liabilities’. *Journal of Political Economy*. Vol. 81, no. 3 (1973), pp. 637-654. Additional work to expand the mathematical understanding of the basis of the model was performed by Robert C. Merton in his ‘Theory of Rational Option Pricing,’ *Bell Journal of Economics and Management Science*. Vol. 4, no. 1 (1973), pp. 141-183. As a result, the model is sometimes referred to as the Black-Scholes-Merton model. I will, however, refer to it simply as the Black-Scholes model. Robert C. Merton is, ironically given my analysis, the son of Robert K. Merton, who initially formalised the notion of the self-fulfilling prophecy.
based upon three observable and measureable parameters and one single unobservable parameter (the volatility of prices). In theory, this allowed for a highly accurate assessment of the ongoing ‘correct’ price for any particular stock option. Interestingly, the initial prices observed on the CBOE exhibited sizeable deviations from the prices suggested by the formula: on the opening day, the prices options were trading at showed deviations in the range of 30%-40% from those predicted by the model. In this early period, then, the formula did not provide an accurate reflection of the situation it was supposed to model.

Yet, over time, the degree of variation between the prices suggested by the model and the trading price on the CBOE diminished significantly to the point where the average variation was only about two percent. In other words, the prices in reality seemed to converge upon the formula designed to model the prices. In part, this convergence may be attributed to technical factors. For instance, one of the assumptions within the Black-Scholes model that there are no transaction costs within the process of options trading. Thus, the ongoing development of the exchange in ways that facilitated greater efficiency in trading procedures also served to bring reality closer to the presumptions of the model. However, a second process must also be considered to have contributed to the convergence: as time passed, traders increasingly began to use the model as a guide in understanding prices and assessing potential trades. In using the model to guide their activity, they may have assisted in making its predictions more accurate:

When spreaders used Black-Scholes to identify discrepancies, it would be precisely deviations from th[e] flat line [predicted by the model] that their activities tended to arbitrage away. The model was, therefore, helped to pass its central econometric test by the market activities of those who used it.10

So, the more widely the model was accepted as being an accurate reflection of true prices, the more reality came to resemble the model’s predictions.

What makes this trend more significant is that it cannot simply be interpreted as an actual market gradually eliminating inefficiencies and so falling into line with

theoretical predictions. This is because the period of market conformity to the model was not permanent. Instead, MacKenzie and Millo suggest that it may be possible to divide the history of option prices into three observable phases:

First is the phase prior to the opening of the CBOE and in its first year or so, when there were substantial differences between observed prices and Black-Scholes values. The second is a phase that had begun by 1976 and lasted until summer 1987, in which the Black-Scholes-Merton model was an excellent fit to observed prices. Third is a phase from autumn 1987 to the present, when the model’s fit has again been poor, especially for index options, in the crucial matter of the relationship between strike price and implied volatility.\(^\text{11}\)

This suggests that it is incorrect to surmise that the period of convergence was attributable to the idea that the Black-Scholes model accurately reflected an underlying reality. For, October 1987 witnessed a huge stock market crash, the sharpest at that point since the Wall Street Crash of 1929. Under the assumptions of the Black-Scholes pricing model, this was an event of unfeasibly unlikely odds. As a result, confidence was seriously undermined in the ongoing accuracy of its predictions. So, from that point onwards, option prices exhibited a distinct skew from those suggested by Black-Scholes.

These phases would appear to support the interpretation that the period of compliance between market prices and modelled prices was, to a significant degree, simply reflective of the confidence of actors within the market that the Black-Scholes formula provided an accurate representation of what real prices should be. Their belief in the model served to increase the accuracy of its predictions, but once this belief was lost, prices again moved away. However, it is important to note that this was not simply a case of the beliefs of individual actors shaping things alone: over the period of close fit, processes, pricing sheets and computer programmes were developed using the Black-Scholes model as a base, incorporating its assumptions into the basic procedures of market trading. In this instance, we can see that acceptance of a

\(^{11}\) Ibid. p.130.
particular model helped to alter both beliefs and institutions in ways that encouraged further convergence upon the predictions of that model.

This case is particularly intriguing because it offers a situation where the veracity of modelled predictions can be easily and accurately quantified against observed reality. Many other theoretical attempts to account for social behaviour will involve far more complex and diffuse processes that cannot be quite so easily and effectively measured. Yet, even in these wider cases, it seems natural to conjecture that a similar dynamic may occur: institutions and procedures will be based upon certain patterns of assumed behaviour; in so doing, they will provide incentives towards conformity with this behaviour; this observed compliance will strengthen the force of expectation, encouraging a wider acceptance and more thorough adherence to what is expected. The assumptions that guide the basic design of institutions, then, will often be reinforced by their effects upon ongoing behaviour. This makes an awareness of the assumptions lying behind the main social and economic institutions of a society, and their relative weight in shaping the behaviour and belief of its citizens, a key component of any attempt to understand prospects for social reform.

In what follows, I will argue that there is a degree of tension between the motivational and behavioural assumptions used by neoclassical economics in the modelling of market interaction and the fundamental normative assumptions of political liberalism. As a result, institutions that deploy such economic assumptions in ways that significantly change behaviour or expected behaviour have the potential to undermine the perceived viability of liberal egalitarian schemes of fairness or social justice. Therefore, reform of these institutions may be a prerequisite for the wider implementation of any such liberal egalitarian scheme.

6.2 Motivational assumptions and social life

The preceding section drew attention to two features of social norms and social interaction: that compliance with social norms is, to a significant degree, conditional upon expectations of the behaviour of others, and that the acceptance of a theoretical

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12 This need not necessarily be the case. A set of institutions may be unstable as a result of being unable to produce the sorts of attitude and behaviour needed to maintain itself in a steady equilibrium.
model of social behaviour may in itself exert an influence such that social reality comes
to more closely conform to the predictions of the model. Taken together, these features
suggest two important conclusions for normative social theory:

1) It cautions against making overly strong claims on the basis of current observed
behaviour, as it is likely such behaviour is, to some degree, adaptive to current
institutions. This also provides a further reason to be sceptical of basing the
design of social institutions on comprehensive anthropological claims about
human nature.

2) An assessment of the motivational assumptions behind the design of
institutions will help to inform any attempt at social reform. If one of the aims
of normative theory is the attempt to realise better forms of collective social
organisation, then it is important to develop an understanding of why people
continue to subscribe to norms or institutional forms that are normatively
suboptimal, or work against those people’s interests.

In particular reference to (2) above, I explore in more detail how the motivational
assumptions of economics, and their realisation in the institutional form of the
employment sector, may exercise a normative constraint upon the social forms people
believe to be feasible. In particular, I demonstrate the incompatibility between the
agent of economic theory and the liberal egalitarian assumption that people should be
regarded as free and equal persons seeking to engage in fair forms of cooperation.

6.2.1 The assumptions of economics

Neo-classical economic theories typically base their predictions on an abstract
characterisation of individual agents. The benefits of employing such a characterisation
are clear: for complex human interactions to be modelled with any degree of systematic
mathematical rigour, it seems essential that the agents within the model behave in a
regular manner amenable to prediction. The resulting agent of economic theory, often
referred to as *homo economicus*, may be described as exhibiting the following features:

- a fully-formed, fixed and determinate set of preferences;
- the motivation to pursue the self-interested fulfilment of the preferences over
  and above any competing concern;
• a calculating, outcome-orientated approach to each individual situation that strategically seeks the maximisation of individual gain;

• a consistent attitude to preference-fulfilment over time, such that short-term gains will not be prioritised over potentially greater gains in the long-term.

In addition to this, it is also assumed that:

• agents will have access to, and be capable of effectively processing, perfect information about the options available to them, and the payoffs associated with particular options.

Although not unaware of the fact that this involves a sizeable abstraction from any actual human agent, many economists have been happy to follow the lead of Milton Friedman in suggesting that it is the accuracy of predictions, rather than that of initial assumptions that is of greatest importance. And, indeed, in many cases the resultant theories have been highly successful in providing useful and useable predictions regarding market behaviour.

The fact that such assumptions have allowed economists to model complex systems of social behaviour with a degree of mathematical rigour and accuracy may, however, serve to turn a useful theoretical abstraction into an article of faith about the real functioning of human motivation. In so doing, this sometimes leads to the belief that the behavioural model of homo economicus is a universal, which may be applicable to contexts beyond the attempt to model market behaviour. Many other areas of concern have seen the wholesale application of rational choice models of human behaviour, including criminal punishment, education and analysis of political institutions. In some cases, the aim of such work is to try to understand the actions of agents in strategic terms, in others the aim is the attempt amend the design of social structures and institutions to alter the behaviour or agents. In most cases, the latter aim

13 “To put this point less paradoxically, the relevant question to ask about the “assumptions” of a theory is not whether they are descriptively “realistic,” for they never are, but whether they are sufficiently good approximations for the purpose in hand. And this question can be answered only by seeing whether the theory works, which means whether it yields sufficiently accurate predictions.” Milton Friedman. Essays in Positive Economics (Chicago: University of Chicago Press: 1953). p.153.

would be pursued by an attempt to alter the payoff structure to incentivise or
discourage certain actions or choices. So, for example, a rational choice approach to
crime prevention may involve increasing the penalty associated with that crime as a
means to alter the rational calculation of potential criminals.

Employing the rational actor of economic theory in domains outside of the
large-scale markets in which it would typically be utilised may serve to encourage
moves to try to shape these non-market areas of social activity in ways that lead them
to more closely resemble markets. So, taking a rational choice approach to education
may lead to the implementation of policies such as school league tables, which would
allow parents greater choice over how to maximise the education their children
receive, while also providing a means by which the performance of teaching staff may
be evaluated and either rewarded or punished as deemed necessary. Hence, the use of
rational choice methods to model an area of activity may be accompanied by an
institutional shift within that area to a system based explicitly upon extrinsic rewards
as a means to motivate individual behaviour and choices. Once such incentives are in
place, it is highly likely that observed behaviour will be altered, often in a manner that
will be more consistent with that predicted by a rational choice model of motivation. In
this way, the more widely the *homo economicus* model of human motivation is assumed
in the design of institutional forms, the more likely it is that behaviour in that sphere
will come to more closely resemble that expected by the model.15

6.2.2 Evaluating *homo economicus*

Given the prevalence of the of the *homo economicus* model of human motivation in
attempting to understand human behaviour, it is worth stopping to assess the overall
desirability of the model. In this respect, it seems that two particular forms of
assessment are appropriate: firstly, to what extent does it provide an accurate empirical
account of individual motivation; secondly, how attractive is the model – and the
institutional forms and behaviours it suggests – from a normative viewpoint?

15 See, for example, the gaming responses employed by staff as a means to meet targets in the UK NHS. H.
Christopher and C. Hood. ‘Gaming in Targetworld: The Targets Approach to Managing British Public

i) Empirical considerations

In regard to the former question, it should be noted that the model of the rational individual agent has come under significant scrutiny even in the regard to its ability to model decision making in large-scale markets. Herbert Simon coined the term ‘bounded rationality’ to describe the limitations likely to affect actual economic agents in their decisions. This calls into question the accuracy of the assumption that agents will always be able to access perfect information and apply a fully rational deliberative procedure to consider the most effective response to the situation. Rather, Simon suggests that economic models should recognise the cost of gathering information and should also consider the possibility that agents utilise simplified heuristics rather than always employing optimal maximisation strategies.

Although suggesting a slightly richer psychological account of human behaviour, accounts such as Simon’s still appear to presume that agents are purely goal-oriented and self-interested, merely drawing attention to the way in which situational and cognitive limitations may compromise the ability of agents to be thoroughly and consistently optimal in pursuing given ends. Yet, everyday observation suggest many examples of behaviour that are not obviously guided by self-regarding concerns: acts of generosity or charitable giving, acts involving excessive and unnecessary levels of risk, or costly acts of punishing or avenging wrongdoing. Theoretical perspectives committed to the primacy of self-interested motivation have remain remarkably resilient, however, in suggesting how even apparently selfless, costly or risky behaviour may still be shaped by underlying motivations consistent with *homo economicus*. Hence, charitable giving may be shaped by a concern to foster a certain reputation that may later prove beneficial, while acts of vengeance may be aimed at discouraging future transgressions against the agent. Given the complexity of human social relations, establishing conclusive proof of the correct motivational base


of behaviour through a simple observation of everyday interactions would seem an impossible task.

As a result, behavioural economics has turned its focus to controlled experimental situations, in which decisions can be assessed in a way that allows for a better understanding of human motivation and interaction. Much of the evidence from these experimental situations calls into question the accuracy of the *homo economicus* model. For instance, experimental subjects have consistently demonstrated that they are not time consistent, with a clear bias that favours smaller short-term gains over larger benefits in the long-term. Equally, as described in Chapter 3, the results of many experiments reveal that subjects are not simply focussed on individual gain, but will also display a taste for fairness and cooperative behaviour, even when this comes at a personal cost. Therefore, although the rational choice assumptions that inform the *homo economicus* model may be a useful base for modelling behaviour in anonymous market interactions, it is clear that it cannot be regarded as a complete account of individual agents *per se*.

**ii) Normative considerations**

Although doubts remain as to the degree to which actual human agents do act in a manner consistent with that of *homo economicus*, it may still be possible to retort that when they fail to act in this way they are in some sense acting irrationally. This might then be to advance a claim common throughout the history of economics that the pursuit by each individual of their own interest may be the most effective means to secure the general interest of all. Thus, it is argued that institutions that aim to promote motivations consistent with the *homo economicus* model of rational decision making remain normatively desirable and ought still to be pursued.

The problem with this suggestion is that, if *homo economicus* is assumed to provide a general model of human behaviour, this makes a general scheme of cooperative human life is almost impossible to conceive. For, if each individual is solely guided by their own ends, then they will always take opportunities to defect where this will prove beneficial to them. This, in turn affects the effective strategies of others within social interactions in a manner that is likely to lead to deficient outcomes. The Prisoners’ Dilemma is perhaps the most definitive example of the structure of this
problem. In such a situation, if each player applies exemplary strategic rationality in considering whether to act in a cooperative or noncooperative manner this will lead to a suboptimal outcome from every one of the players’ perspectives. In some ways this logic mirrors the situation Hobbes describes as present in a state of nature: with no assurance of cooperation from others, the reliance of individuals on prudential strategic choices will undermine any chance of achieving a secure social life. Hobbes’ solution is, in effect, to change the incentive structure of the situation, by envisaging a power strong enough to deter uncooperative behaviour. In this manner, it would seem that collective social life between individually rational agents is dependent upon some degree of constraint, backed by an authoritative power.

It can be seen, then, that even if there are significant general benefits available from cooperation, this is still dependent upon each participant having confidence that most of their fellows will not be tempted to defect in the specific situations where this would bring them personal gain. If it is presumed that most other persons are employing strategic rationality in the manner suggested by the *homo economicus* model, then this level of confidence is unlikely to be achievable. Unless there is some assurance that others identify with, and will follow, the rules of cooperation, it would

18 The Prisoners’ Dilemma takes the following form: suppose two suspects, Lisa and Nick, have been arrested by the police. The police currently have enough evidence to convict both of them on a relatively minor charge, which would lead to a sentence of two years in prison for each of them. However, the police believe Lisa and Nick were attempting to pull off a more serious crime, but do not yet have the evidence to prove this greater charge. So, the police make an offer to Lisa (with a similar offer separately made to Nick): “If you provide evidence that incriminates Nick in this more serious crime, we will let you off with the current lesser charge we have against you.” Should Lisa reveal Nick’s involvement, then the police would seek the maximum penalty of twelve years in prison. Yet, if Nick also implicates Lisa, then the police will have enough evidence to convict both suspects of the greater crime, which will lead to both receiving ten years in prison.

Each suspect thus faces the following choice: the optimal individual choice is to speak up while the other remains silent; however the best collective choice is for both to remain silent and stand convicted of the lesser charge. Both Lisa and Nick have the knowledge that, if they personally remain silent while the other one speaks, they will face the worst potential outcome. As a result, Lisa’s best option is always to implicate Nick, no matter what Nick chooses to do, and the same applies to Nick in making his choice. In game theory terms, this is the dominant strategy. Yet, it is also sub-optimal in Pareto terms, as both could be better off pursuing an alternative course of action.

appear that any form of collective endeavour would require a power in place of similar stature to Hobbes’ Leviathan, in order to discourage infractions against the cooperative scheme. A situation in which each individual is conceived of as a pure strategic maximiser is one in which stable cooperation would require a significant sacrifice of individual freedom. In this regard, it must be considered unattractive for individuals to take on the characteristics of *homo economicus* in all of their actions.\(^{20}\)

It can therefore be seen that there are significant limitations upon both the accuracy and the desirability of the model of the rational economic actor as a general model for all human activity. It may, though, still be possible to argue that, in certain contexts, it remains applicable as the best means to understand and model the behaviour of individual agents. For instance, in anonymous market transactions, although actual markets may impose certain limitations upon the ideal, it seems difficult to conceive of an alternative general scheme of behaviour that would be more appropriate as a model. As a result, it would still be quite appropriate to use it as a basis for the design of market institutions.

Yet, even on this more limited application of the model, two significant questions remain:

1. how are we to approach contexts such as employment, where activity is market-oriented yet not fully marketised?

2. to what extent is it possible to employ the model of the rational economic actor without this shaping people’s beliefs about how individual agents really act, in a manner that would severely hamper political efforts to establish and maintain an ongoing scheme of fair social cooperation?

In regard to this latter question, the key issue is whether a widespread reliance upon the behavioural model of the rational economic actor in institutional design may

come to influence behaviour in a manner that makes the model appear more empirically valid, thus creating a constraint upon the types of social organisation considered feasible, as people become reluctant to countenance more expansive schemes of cooperation. In order to explore these issues more fully, I now scrutinise workplace organisation in greater detail, considering how *homo economicus* model of behaviour has been employed within this sphere in the form of the principal-agent problem. I argue that the use of this model in the analysis of working relationships both exercises a constraint on the sorts of forms of workplace organisation that are perceived as effective and, in turn, leads to a wider constraint upon the likely forms of political organisation thought feasible.

### 6.3 The principal-agent problem

If economic agents are conceived of as being self-serving rational maximisers, then any employment relationship will be characterised by the potential for conflict, as the interests of an employer will rarely, if ever, align with those of their employees. Generally, it may be thought that the employer will wish to receive the greatest possible effort from the worker, in exchange for as little remuneration as possible. Meanwhile, for the employee, the aim is to receive the maximum possible reward for their efforts. These factors will help to shape the initial bargain struck between the two parties and will shape the employment contract between them, however, it will also exert a significant influence upon the ongoing character of the employment relationship. For, as outlined in §4.3.4, the initial specification of the terms of employment may struggle to define the exact behaviour required in every circumstance, leaving a persistent degree of uncertainty as to the actions required from the employee and, in turn, to the extent their performance is satisfactory. In such circumstances, the employer will be faced with a significant doubt as to the degree their specified interests have been adequately fulfilled by the employee. In this situation arises a principal-agent problem.

The major elements of the principal-agent problem are a situation in which a principal hires an agent to perform a task that is beneficial to the principal and costly to the agent, but which may be costly or difficult to monitor precisely. As a result, the
principal is exposed to risk, as they are unaware of the degree to which the agent is effectively pursuing the specified task. In regard to employment, the employee may, for instance, not be expending the desired level of effort, or may be making use of opportunities and equipment provided by the employer in order to further personal aims.

It is in the principal’s interest, then, to find a means to ensure the agent is fulfilling the expected task in the expected manner. The means of handling this problem involves the attempt to find the most effective means of monitoring and motivating the agent so as to ensure they are performing. This then draws attention to two key features of the situation: the agent’s reward structure and the level of information available to the principal concerning the agent’s performance.

6.3.1 Reward structure

Attempts to deal with the principal-agent problem will largely be based around the attempt to find some way in which to align the interests of the two parties. If the agent is conceived of as a rational economic actor, then the manner in which such an alignment is likely to take place is through adjustments to the scale and manner in which the agent is rewarded. This then involves an attempt to change the incentive structure facing the agent so that the course of action that would bring the greatest reward would be that most favoured by the principal.

For example, imagine Alison owns a gardening business and has hired Brendan to mow lawns. Brendan’s natural inclination is to work at about 75% of his full capacity and to take regular breaks to make things easier on himself. As a result, he would typically mow an average of 36 lawns per week. Were he to work at full capacity, he would be capable of mowing an average of 48 lawns per week. In order to push him towards his full capacity, Alison may decide to award him a weekly bonus each time he manages to mow 45 lawns in a week. Provided this bonus is sufficiently large to outweigh the cost of Brendan’s additional effort, it will be able to induce Brendan to increase his weekly output.

It may seem, then, that Alison’s best strategy might instead be to simply pay Brendan a particular fee for each lawn he mows. Piece rates such as this are common in some areas of work. For instance, if Charlie wishes to hire Diane to pick apples from
his orchard, he might decide to pay her a set amount for every kilogram of apples she picks. Yet, the effectiveness of this model of pay will be affected by the level of uncertainty involved in the exercise. Since Diane is able to see the fruit-laden trees within Charlie’s orchard, she can be certain that the effort she expends will be suitably rewarded. But, in many circumstances, the risks will mean such a direct link between pay and output will be unacceptably risky for the agent. For example, when Ella is hired as a salesperson for Frank’s helicopter manufacturers, she will be aware that, although the average sale will have a very high value, sales of such an expensive item may be frustratingly irregular, and so it may be unwise to accept remuneration solely via a percentage commission on each sale. As a result, it may be necessary for Frank to offer Ella a retainer to ensure some degree of regular income, supplemented by commission to reward any sales she is able to secure.

But it is not simply uncertainty that makes direct pay for performance strategies hard to implement in all fields. Sometimes it also hard to specify a reward scheme that will faultlessly track the principal’s wishes. Imagine, for example, that Gemma owns a bar and hires Henry as one of her bar staff. As is common practice in this sector (particularly in the USA) Gemma makes Henry’s wages dependent upon the tips received from customers over the course of his shift. This provides Henry with an incentive to be attentive to the needs of customers and highly responsive in serving them, therefore seeming to tie his interests to those of Gemma in keeping the bar’s customers happy. Yet, after a few weeks in the job, Henry realises that one of the best ways to increase his tips is by pouring customers extra-large measures of the drinks they order. However, in doing this, he reduces the profit margins of the bar, going against Gemma’s interests. In this manner, for many roles, the complexity of their performance and the range of interests involved will ensure that a direct link between reward and performance is hard to achieve.

One way in which it may still be possible to create such a direct link, even for complex tasks, would be through a well-specified contract. Provided the final product is relatively self-contained, a huge number of processes and tasks may be handled in this manner. For instance, suppose that Ian wishes to have a new kitchen fitted within his house. He decides to employ Jessica to design and fit the kitchen on his behalf.
Provided that the contract between the two parties is able to adequately specify his requirements in terms of design, timescale and quality, Ian can be relatively confident that Jessica will comply with his wishes. Even the manner of payment might be specified within the contract: Ian might agree to pay half of the overall fee up front, with the remainder being due upon satisfactory completion of the project, subject to pre-specified deductions for untimely completion or failure to comply with his specifications. If the contract is sufficiently detailed, then Ian can leave Jessica to handle the various process involved in fitting the kitchen: precise design details, sourcing materials, fitting the various units and appliances, plumbing, and so on. Ian then knows he has an official legal mechanism through which he can take action against Jessica if she fails to act in his agreed interests. Here, we see a further means by which a principal may seek to change the incentive structure of an agent, not just through inducement by reward, but rather through the inclusion of some sanction that increases the costs of departing from the principal’s interests.

While contracts for specific projects such as Ian’s kitchen may be able to include a range of financial penalties for inadequate performance, a typical employment contract will have fewer sanctions available. Ultimately, the most potent sanction available to a principal is dismissal, motivating the agent to comply with their wishes so as to avoid the curtailment of future employment. The strength of this threat will, of course, be dependent to a degree on the prevailing conditions within the wider market and the availability of alternative employment. In conditions where the employer is on the short side of the market, with intense competition for jobs, it is likely that fear of dismissal will provide a compelling motivation for employees to abide by the interests of their employer, encouraging them to strive to fulfil the employer’s wishes to as complete a degree as possible. In such conditions, then, it may be in an employer’s interests to increase the vulnerability of their employees to the market. So, for example, Kieran might decide to hire Louise as his website designer on a six-month contract, rather than making her a permanent employee, as he is aware that there is significant competition for jobs within the field. As a result, Louise will know that, even if her performance is perfectly satisfactory, Kieran might not renew her contract if he thinks he would be able to find someone better. In this situation, Louise has a clear reason to
try to excel in her performance, so as to try to gain a contract extension. In this manner, market imperatives continue to exert a disciplining influence on her behaviour, even within a period employment.

Thus, it can be seen that there are many different ways in which the incentive structure of a working relationship may be designed, and many different factors will shape the specific balance of benefits and disciplinary pressures utilised. One of the most important of these factors, and another key dimension of the principal-agent problem, is the extent that information about the agent’s performance is readily available to the principal – an issue I now discuss in further detail.

6.3.2 Information

The key feature of the principal-agent problem is the uncertainty over whether the agent will act within the interests of the principal. One way in which the problem may be eased is via gathering information to inform a judgement about the agent’s performance. In regard to employment relationships, it is useful to distinguish between the information obtained about an agent prior to their initial commissioning to the task and that gathered on an ongoing basis to assess their performance within the role. I, therefore, make a distinction between approval and scrutiny in regard to the information requirements of the principal, where the former term refers to information sought about a prospective candidate for a role and the latter refers to the oversight of their ongoing performance.

Approving a candidate for a particular role may be as simple as verifying that they are qualified to perform within the role. For instance, in seeking to appoint a car mechanic to work in his garage, Martin may simply be concerned with the applicants’ aptitude for fixing cars. Thus, when Naomi applies for the role, he may simply seek some evidence of her competence, either by enquiring into her previous training or experience, or by giving her a practical test through which she might demonstrate her ability. Once satisfied that she is a capable mechanic, he may then simply offer her the position.

Yet, in many cases a prospective employer may not quite so easily satisfied. They may have doubts about the general trustworthiness of an applicant, which might lead them to doubt the veracity of the information provided. So, before hiring Owen to
work as a chef in her restaurant, Penny might decide to contact his previous employer, Quentin, for a reference. In so doing, she can not only gain information about his competence, but can also gain some degree of insight into his character and can double-check that the details Owen has provided her with about his previous employment are correct. In so doing, Penny may be able to build up a greater degree of confidence that Owen would perform effectively if she hired him.

It may be the case, however, that a prospective employer wishes to go further in establishing the likely character of potential employees. In considering whether to employ Robert or Stephanie to fill a vacant data analyst post, Theresa may use the information they have provided to try to infer elements of their character. So, the fact that Robert plays for a local rugby club may be thought to demonstrate that he is competitive and effective as part of a team. Meanwhile, the fact that Stephanie regularly volunteers to assist a charity may be used as evidence of her generous nature and social conscience. But, Theresa may also be attentive for evidence of particular character flaws in their past histories. So, the fact that Robert has been out of work for nine months might be taken to indicate that he lacks initiative and application, while Stephanie’s regular changes of employer may be viewed to suggest that she lacks commitment, or that she is an awkward character who struggles to fit in with her colleagues.

Seeking to establish someone’s character in this manner, and so deduce their likely future behaviour, may be seen to mirror one means of responding to the gloomy motivational account described by the Prisoners’ Dilemma. If, rather than being a one-shot game, the same players were involved in multiple games, then it would be possible for a stable pattern of cooperative behaviour to emerge. In computer testing various strategies for handling a repeated Prisoners’ Dilemma, Robert Axelrod was able to demonstrate that a simple tit-for-tat strategy would generally be the most effective way for players to respond.21 Punishing defection through future non-

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21 This would involve their first move being to cooperate, but to punish a defection by the other player by taking the non-cooperative response in the following game. Yet, the player of a tit-for-tat strategy will be forgiving if the other player resumes cooperation, responding in kind.

cooperation reduces the effectiveness of a unilateral defection strategy, changing the overall payoff-structure of the situation.\textsuperscript{22} Thus, a player must not only consider their response to the situation itself, but also how their response might affect the future behaviour of the other player, and how this may shape chances of future benefit.

However, most social behaviour takes place in a setting that is far more complex than the two player setting of repeated experimental games. Correctly interpreting and keeping track of the precise behaviour of each person we encounter on an ongoing basis will be an enormously costly, and most likely an ineffective, means of establishing our ongoing behaviour towards others. Equally, an assumption in favour of initial cooperation (such as that recommended by the tit-for-tat strategy) may be risky in situations where repeated interactions cannot be assured. As a result, reputational effects may be highly important in maintaining complex systems of cooperation. Thus, in many situations, such as prior to approval for employment, it will be effective to attempt to ascertain the reputation of potential partners in cooperation, by making use of wider social knowledge about them (as Penny does when contacting Quentin for a reference about Owen) or by assessing the available knowledge of their past behaviour (as Theresa does regarding Robert and Stephanie). Equally, there will be benefits that come from being able to demonstrate a good reputation, so it may be effective for individuals to engage in activities that may help to establish or maintain a good reputation (such as Stephanie’s volunteer activity).

I return to a more detailed discussion of the potential costs of a widespread reliance upon reputational effects in §6.4, however, it is worth noting here that, in some situations, the effort required to establish the reputation of a potential employee may not be thought worthwhile. This is particularly likely to be the case for low-skilled or short-term roles. For instance, in looking to appoint a waiter for the busy summer months for her beachfront café, Ursula may decide that a lengthy approval process is unnecessarily costly and so gives the job to Vincent, the first applicant for the position.

\textsuperscript{22} Gerald Gaus is correct to note that it is the element of punishment of non-cooperators that makes tit-for-tat an effective strategy and, as a result, tit-for-tat cannot be regarded as a unique strategic solution. Instead, any strategy in which non-cooperation is discouraged via future non-cooperative responses will be just as effective. Gaus. \textit{Order}. p. 88-9.
However, given that Ursula has little knowledge of Vincent’s character, it may be the case that she does not allow him much responsibility within the role, and that she is more attentive to overseeing his work, to ensure that he is an effective worker. There may, then, be an inverse relationship between the level of information gained in approving an employee and that thought necessary in day-to-day scrutiny of their work: the more an employer is able establish the character and credentials of an employee, the more they are likely to be confident enough to provide the employee with a relative degree of freedom within the role.

This draws attention to the potential for scrutiny of a worker to be used as a means of easing the problems of the principal-agent relationship. Greater information of the agent’s performance may help to increase the confidence of the principal that their wishes are being fulfilled. One way this may be achieved would be by giving a trusted intermediary the task of overseeing the work of the agent. So, if Walter is concerned about Xavier’s performance as a worker in his warehouse, but is unable to personally expend much time observing his work, he may ask Yvonne to head up operations within the warehouse, so that she is able to oversee Xavier’s work. Hence one of the reasons for the hierarchical nature of many firms. Dividing a firm into many levels of seniority allows each manager a greater access to the ongoing performance of their subordinates. However, in order to overcome the principal-agent problem, each of these differentiations must be characterised by a degree of accountability and transparency. Walter still has to be confident that Yvonne will effectively fulfil her role, so will need some degree of oversight of her performance.

An alternative means of scrutiny of the performance of an agent is, rather than attempting to oversee the entirety of their work, instead to rely upon certain measureable outputs as an indicator of their overall performance. So, for example, Zoe’s performance in sales might be evaluated solely by the volume of goods she is able to sell while Alan’s work on an assembly line may be assessed by the speed of his output. One danger of this approach is that it may lead to an oversimplifying perspective that hides the true level of performance. Zoe may achieve outstanding sales figures by misleading potential customers about the true nature of her product, or by agreeing to completely unrealistic production or delivery schedules that cause
problems for the rest of her firm. Meanwhile, Alan’s output may be slowed by unreliable machinery on his section of the assembly line. As a result, the measureable figures may obscure the truth of Zoe and Alan’s performance as much as it clarifies it.

The key overall aim for an employer is to find an inexpensive means to assess the performance of their workers and, where possible, to link this to rewards or punishment in a way that will encourage the fullest performance from the worker. One point worth noting, however, is that, in all of the formulations discussed above, the assumption is that the worker will themselves not be inclined to perform effectively in the role of their own accord, and so extrinsic motivational factors must be employed in order to induce this performance. In other words, they remain attached to the *homo economicus* model of human motivation.

### 6.4 Problems with the principal-agent model

The above section outlined some of the major considerations that may be employed in designing the structure of particular job roles and the pattern of rewards available from them. Yet, I argue that the underlying reliance upon the *homo economicus* model may serve to crowd out cooperative motivation and behaviour, not only within the economic sphere, but also within the wider political sphere, by exerting a constraint on the sorts of collective practice thought possible. In addition to this, I maintain that, when employed within an inherently politicised marketplace characterised by unequal bargaining power, the need for a high degree of control or information about the performance of employees has some highly undesirable consequences, providing further reasons for normative concern about the structure of the workplace and working relations.

#### 6.4.1 Crowding out cooperation

In §6.1.2 I discussed the possibility of predictive models coming to influence the behaviour of individuals in a self-fulfilling manner. It is my contention that the employment of the *homo economicus* model in the design of packages of incentives and punishment in employment also has this self-fulfilling character. That is to say, the

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23 As described in Chapter 4.
attention paid to extrinsic benefits in defining an employment contract may shift the focus of the worker such that they place a greater importance on said benefits. Even if they are not requested – or even necessary to motivate some workers – incentives are likely to alter the general patterns of behaviour within the working population, such that they appear as the self-serving maximisers of economic theory.

To illustrate, let us recall the example of Alison’s gardening business, and her decision to reward Brendan with a bonus each time he mows 45 lawns in a week. Now suppose Alison’s firm grows, leading her to realise that she we need additional staff for mowing lawns. Therefore, she also takes on Catherine, offering her exactly the same terms as Brendan. Catherine’s natural inclination would be to work at as close to full capacity as possible, which would allow her to mow an average of 50 lawns each week (as she is also a little quicker than Brendan). However, Catherine takes the target of 45 lawns per week, coupled with Brendan’s tendency to just meet this figure each week as an indication of what is expected of her. As a result, Catherine falls into line with what she believes is expected, ending her working week at the point she reaches the target of 45 lawns, rather than following her own inclinations. So, although their individual preferences may be distinctly opposed, with Catherine much keener by inclination, the expectations created by the incentive scheme may encourage both workers to converge on the behaviour predicted by the *homo economicus* model. Whether sought or not, whether necessary or not – direct incentives are likely to change behaviour.

Equally, incentives directed at an individual may serve to undermine cooperation within a workplace. Suppose that, worried about consistently being able to meet his target of 45 lawns mowed in a week, Brendan tries to arrange the workload so that all of the largest lawns each week are added to Catherine’s schedule, thus lessening his own workload. Even if more favourably inclined towards the work than Brendan, Catherine may quite reasonably object to the inequality of this division, as it means that she would have to complete more work than Brendan to achieve the same level of gain. If Catherine raises this unfair situation as an issue with Alison, she is likely to make herself unpopular with Brendan. However, even if she remains quiet it seems highly likely that the working relationship between Catherine and Brendan would be harmed by some feelings of resentment. Where efforts are made to measure
and reward performance on an individual basis it will, quite naturally, lead individuals to prioritise their own performance. In so doing, they may come to perceive others as competitors, and perhaps even as obstacles, to their own accomplishments.24

Such an attitude is likely to undermine cooperation, making it largely contingent on the clear knowledge that both parties will benefit. But, what is important to note is that each individual need not be unwilling or disinclined to cooperate: rather, it is the expectation that others will be unlikely to reciprocate that is most likely to erode trust and cooperative behaviour. The more that employment situations are based on the use of extrinsic rewards and punishments aimed at individual performance, the more that such a suspicion will be likely to arise. As a result, it is highly likely that the observance of this kind of conditional cooperation and pursuit of individual gain will underscore the assumptions of the *homo economicus* model of individuals as self-serving maximisers.

The question that then becomes pertinent is the extent to which this perception of individual motivation can adequately be contained within the economic sphere, or whether it will also bleed through into attitudes about more general social cooperation. If the day-to-day working lives of employees are characterised by a system that mistrusts their inclinations, and one where they themselves mistrust the inclinations of their co-workers, it seems hard to imagine that this will not alter their attitudes towards fellow citizens and the prospects of cooperation at a societal level. Therefore, if individuals are faced by an employment system based upon the *homo economicus* model of motivation they are likely to doubt even the basic premises of liberal egalitarian accounts of justice, doubting the viability of fair systems of societal cooperation, and hence the wisdom of regarding their fellows on an equal standing. Notice that it is not necessary for self-serving attitudes to actually be widespread for this sort of constraint to be present: people may have benevolent other-regarding attitudes themselves, but if they believe that other people are primarily motivated by self-interest the forms of social organisation thought feasible will be significantly reduced.

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6.4.2 Incentives as a motor of inequality

The motivational assumptions under scrutiny here, that individual effort will be dependent upon the degree of extrinsic reward available, have often been used as the basis for an argument in favour of inequality. Unequal societies are more dynamic, it is suggested, as their most able members will be more likely to exert themselves when they know significant rewards can be accrued.

For many commentators, this argument forms a component part of John Rawls’ design of the difference principle: if inequalities can be justified when they will improve the situation of the worst-off, this seems to imply that it is necessary to incentivise the most able of a society’s members to perform the particular actions necessary in order to grow the overall total social product. This suggestion has attracted a great deal of scrutiny and controversy, with many egalitarian thinkers questioning the validity of Rawls’ account of a just society. Most notably, G.A. Cohen has subjected the incentives argument to sustained and rigorous criticism.\(^25\) Among the many criticisms Cohen advances is the important claim that the motivational necessity of extrinsic incentives should not be taken as a given. There seems little reason why the skilled and talented members of a society could not exert their maximum effort without additional reward, were they so inclined. This leads to Cohen’s famous analogy between the talented requesting additional reward for the efforts and a kidnapper’s demand for a ransom\(^26\): in both cases it may be prudent to pay what is asked, but it is also deeply immoral for the person to make the particular demand, as they possess the ability to produce the best outcome in a far less costly manner.

I will return to explore Cohen’s critique of the incentives argument in greater detail in the following chapter, but it is worth noting at this point a little more about how this argument fits in with the motivational picture drawn by the homo economicus model. In effect, this model suggests that everyone takes the same position as Cohen’s kidnapper: for each of us, the aim is simply to gain the greatest possible ransom. The reason that some will be able to achieve significantly higher rewards than others is due

\(^{25}\) Cohen. *Rescuing*.

\(^{26}\) Ibid. p.38-41.
to their unequal bargaining power – a result of the non-clearing nature of the labour market\(^{27}\) and the variable value placed on their skills and abilities. Some workers will find themselves on the short side of the market, with few competitors and many potential employers seeking their services, and so will find themselves heavily rewarded. Meanwhile, others will be on the long side of the market, finding few job opportunities available, and so will have to accede to the demands of an employer. If each person indeed acts solely in a self-serving manner, then the degree of mismatch between supply and demand comes to determine the degree and scale of overall inequality. For Cohen, therefore, the cause of equality requires that individuals must not act as rational economic agents.

### 6.4.3 Vulnerability and domination

In a similar manner to the potential for extrinsic incentives to reinforce the model of the rational maximising agent, a further dynamic may be encouraged by conceiving of the employment relationship in terms of a principal agent problem. This is that the wish for control over the agent may in itself exhibit a self-reinforcing character, particularly in situations where the employer is in a favourable bargaining position. For, any disciplinary measures aimed at ensuring increased productivity and compliance with the employer’s wishes are also likely to undermine the likelihood that the worker will personally identify with the employer’s aims. To demonstrate, recall the example of Henry, who works in a bar run by Gemma. Given the fact that bar staff are widely available, Gemma has been able to employ Henry on terms that are very favourable to her interests. Knowing that Henry is not being particularly well rewarded for his efforts, Gemma worries that he may steal alcohol or money from the bar to supplement his wages. As a result, she insists that Henry submit to random searches at the end of some of his shifts. This indignity is resented by Henry, yet market conditions mean that he remains an employee of Gemma’s. However, his resentment does drive him to seek out opportunities to go against Gemma’s wishes. So, he regularly provides his friends with free drinks while he is serving them. Noticing the resultant lower take, Gemma now needs to find a way to exert even closer scrutiny over Henry during his shift.

\(^{27}\) As outlined in Chapter 4.
Likewise, attempts to discipline workers through making their position more vulnerable may also have the effect of reducing their personal identification with their employer, necessitating a higher level of scrutiny and control over their activity. Conceiving of employees as self-serving maximisers denies the possibility that they could come to identify with the purposes of an employer either over the course of an ongoing relationship, or out of a sense of respect for fair treatment by the employer. As a result, employment becomes conceived in the manner of a battle of wills between the respective parties, one in which the winner is likely to be determined by wider market conditions.

In cases such as those characterising much of the low-wage, low-skill sector, this will mean that the work itself is likely to be accompanied by intrusive forms of control and scrutiny, coupled with little in the way of secure prospects over time. Often, this will place workers in situations vis-à-vis their employer that would be deemed unacceptably coercive if between citizens and their state. For example, in Barbara Ehrenreich’s account of her time in low-paid employment, the most troubling aspect of her experience was the extent to which she found the security and guarantees afforded by basic rights and liberties did not extend to the workplace:

What surprised and offended me most about the low-wage workplace... was the extent to which one is required to surrender one’s basic civil rights and – what boils down to the same thing – self-respect. I learned this at the very beginning of my stint as a waitress, when I was warned that my purse could be searched at any time... Drug testing is another routine indignity... In some testing protocols, the employee has to strip to her underwear and pee into a cup in the presence of an aid or technician.28

Notice, as well, that the limits of scrutiny do not simply end at the door to the workplace. The fact that employees are tested for drug use means that the employer is not just concerned with the employee’s conduct within work, but also to factors within their private life, where it is thought that these might possibly interfere with the

28 Ehrenreich. Nickel. p.208-9. The link between basic rights and self-respect Ehrenreich makes echoes the theoretical link between the two in Rawls’ work.
performance of the worker’s assigned task. Drug use may prevent the worker from working to the full extent of their capabilities, or may lead them to develop a habit that their wages could not satisfy, increasing the risk of the employee stealing from the workplace. As a result, it may well be in the employer’s interests to have a drug-free workforce. Yet, were agents of the state to attempt to invade the privacy of their citizens to the same degree, a much more stringent justification would be required. There is, therefore, a significant asymmetry between the sort of treatment individuals receive in the workplace, compared with that likely in wider society.

However, this is not simply a problem that besets the low-wage sector. The reach of many other employers extends beyond the workplace into a concern with the private lives of either employees or potential employees. One recent development is for employers to examine the social network pages of employees or job applicants to allow for a wider assessment of the character and activity. Indeed, some job applicants have reported being asked to provide potential employers with the login details for their accounts on social networking sites.29 Although employers may have legitimate concerns about whether the activity of workers outside of the workplace might interfere with their assigned roles, this would not appear to justify extensive interference within the private lives of workers. Therefore, some limitation upon the degree of information that may be legitimately accessed would appear necessary. Yet, even if such a limit were in place, there remains the possibility that the worker will have little choice but to allow the concerns of employment to play a significant role in their private lives, by themselves exercising a degree of restraint within their private choices, in order to maintain the good reputation necessary to gain and sustain worthwhile employment.

6.4.4 The costs of reputation

At one point in *A Theory of Justice*, Rawls suggests that an increase in the proportion of a population who possess high levels of skill and knowledge would help to reduce wage disparities:

> with many more persons receiving the benefits of training and education, the supply of qualified persons in the... society is much greater. When there are no restrictions on entry or imperfections in the capital market for loans (or subsidies) for education, the premium earned by those better endowed is far less. The relative difference in earnings between the more favored and the lowest income class tends to close... Thus the precept to each according to his training and education is weighted less... and the precept to each according to his effort is weighted more.\(^30\)

However recent developments within the labour market suggest an alternative narrative, in which large premiums continue to exist, but become dependent on a whole range of factors that extend beyond simply training and education, extending well into the private lives of workers.

The assumption that lies behind Rawls’ claim is that a greater pool of highly skilled and educated labour would produce a downward pressure upon the possible wage demands for high-powered roles. My contention is that employers looking to fill such roles may instead seek to extend the relevant criteria for evaluation into areas other than basic skills or qualifications. That is to say, they may continue to value the potential of recruiting the most reputable candidate over and above the saving that could be made in recruiting simply an adequately qualified candidate. Hence, they may choose to continue to pay a premium but link this to a more demanding recruiting standard, one that seeks not just particular qualifications, but the highest possible grades coupled with relevant experience and evidence of wider activity that demonstrates desirable personal characteristics and attitudes. If this type of recruitment strategy is employed then the growth in numbers of the pool of well qualified labour would not, as may be hoped, exert a deflationary pressure upon high

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\(^{30}\) Rawls. *Theory*. p.307
incomes, but may instead be the cause of an inflationary spiral of expectations and demands.

Given a climate such as this, it is those that are best able to build a rounded profile that will be most likely to attain the most desirable positions. Although this probably does move things away from the precept of “each according to his training and education” it does not dispel the suspicion that it is those from affluent or well-supported backgrounds who would be most able to present themselves in this manner. Many of the activities that a child may participate in that will be looked on favourably at a later date – such as participation in sports, music or theatre – are costly, requiring time, support, expensive equipment or the correct facilities. Equally, elite schools are generally more adept at providing students with desirable ‘soft skills’ or attitudes to equip them for a highly competitive labour market, not to mention useful networks of contacts. Further to this, many of the opportunities to gain relevant experience, through travel, volunteering or unpaid internships, would only be available to those able to support themselves financially while participating. Thus, the chances to establish evidence of the sort of attributes sought by employers may vary widely across a society, preventing individuals from certain social backgrounds from having a fair chance of achieving premium roles.

Equally, a reliance upon visible signifiers of certain attractive character traits or attributes carries with it the risk that individuals will be inclined to fake or exaggerate their own achievements, while avoiding the types of cooperative activity that might go unnoticed or undervalued. Yet, the more that this temptation exists, the more the employer will feel the need to exert significant scrutiny over the claims workers make, necessitating a more intense focus upon the behaviour of each worker. In other words, once again we can see the initial presumptions of the homo economicus behavioural model exert a self-reinforcing dynamic that leads away from cooperative relationships conceived on trust towards a need for harsh scrutiny and control as a means to prevent significant conflict.

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6.5 Conclusion

One of the key insights of Rawls’ work, as examined in Chapter 3, is in the manner he describes the interplay between institutional forms and the attitudes of those who live under them. In this chapter, I have further explored this idea in the relationship between the operation of market institutions, the theoretical assumptions used to model and design them, and the potential for a just and fair scheme of social cooperation. I have shown that there is a significant tension between the rational actor of economic theory and the potential for a stable cooperative order. I have also demonstrated how, in the context of working relationships, market assumptions can erode trust and severely worsen the quality of the working lives of individuals. But, if this is the case, does my argument imply that any market in productive labour, with individuals provided with differential reward for different roles, cannot be coherently advocated by those committed to the prospect of a just egalitarian society? I respond to this question in the following chapter.
Chapter 7: The Character and Limits of Employment Markets

The preceding three chapters have provided an exploration of some of the most significant concerns relating to markets and employment from a Rawlsian perspective. Chapter 4 outlined some of the practical gains that may be possible from the use of markets as a means to aid the coordination of productive activity, but also pointed to some significant normative deficits and threats that accompany these benefits. The previous two chapters have given further attention to the extent and nature of these threats. In particular, I argued that striving to achieve maximum efficiency in production will underscore certain behavioural patterns that reduce the forms of social cooperation thought possible. If this is indeed the case, then, does justice demand that we seek to reject markets as a means of coordination, instead insisting upon fair cooperation in all of our interactions? Just what is the normative significance of markets within the productive sphere?

In this chapter, I examine arguments that suggest market-based interaction is inimical to justice. In particular I focus upon the position of G.A Cohen, who completely rejects the need for differential reward to be provided to working individuals for performing different tasks – the basis for a labour market. I argue that the alternative proposed by Cohen – an egalitarian society in which optimum productive activity is maintained via its citizens holding an other-regarding ethos – fails to protect the free agency of individual citizens, and to reconcile this with the strong levels of productive innovation and output associated with market coordination. This becomes clear when we consider the uncertain nature of individual occupational choice. What is valuable about a labour market, then, is that it allows individual agents to make responsible choices for themselves in the presence of uncertain outcomes, something that alternative accounts such as Cohen’s struggle to achieve.

Thus, if individual choice is ultimately what forms the basis of a defence of markets, we must develop an assessment of the conditions in which such economic
choices can be regarded as meaningful and capable of conferring legitimacy upon the resulting outcomes. I contend that the conditions required to ensure that choice can perform this role are such that we should also oppose a simple reliance upon a market system. Having clarified what is of key normative significance within the use of market interaction, and the limits of market capability to effectively deliver desired ends on their own, I discuss a range of practical measures that might be utilised in addressing key concerns within employment markets in the final chapter.

This chapter begins (§7.1) with a detailed discussion of Cohen’s critique of the inclusion of differential pay within Rawls’ theory of justice. My contention is that Cohen’s account fails to adequately deal with the presence of uncertainty in relation to individual occupational choices, an issue to which a market in labour provides a much more effective response. As a result, a market provides the best means to secure the conditions for effective individual agency. I then argue (§7.2) that the appeal to market signalling involved in the defence of markets implies that they are the most effective at realising optimum social value when individual spending power is roughly equal. Both this point, and the subsequent argument (§7.3) that individual market choices are not always sufficient to confer legitimacy on market outcomes, lead to the claim that unfettered markets in labour will not be effective in reconciling the key aims of effective individual agency and beneficial social outcomes. Thus, a more refined account of the normative value of market interaction and how it is best delivered needs to be presented.

7.1 The normative basis for a market in productive labour

The preceding chapter argued that attempts to regulate individual behaviour purely according to market principles would exert an undue influence upon the forms of organisation possible at a societal level. Basing the institutions of society solely around a behavioural model of agents as self-serving maximisers will likely prove to be self-fulfilling such that the preconditions for general societal cooperation will be undermined. In this respect, I appear to be arguing that allowing individuals to maximise returns on an open market according to whatever opportunities are afforded
to them is an unacceptable basis for the organisation of society. In short, this appears to align my argument with G.A. Cohen’s incentives critique.¹

In this section, I argue why this is not the case. For, I believe that Cohen’s account faces significant problems on account of its mischaracterisation of the nature of occupational choice. Outlining these problems will help me to clarify why markets remain a system of value, even if we should seek to avoid using them as a basis for all institutions and situations.

### 7.1.1 Cohen’s incentives critique

The argument that improvements in the standing of the worst off within society can justify unequal outcomes is, according to Cohen, a flawed one, as it poses a false opposition between equality and Pareto optimality that allows the talented or well off to make unjustifiable claims for extra reward. The idea that incentives be provided to the talented in order to induce them into performing socially beneficial activity cannot, Cohen argues, be reconciled with a communal form of social organisation that requires justifications from its members for their actions. For, those requiring incentives are themselves in control of whether beneficial effects are capable of being produced without incentive: the talented could choose to pursue such beneficial activity for no extra reward, so their motives cannot be taken as brute facts. Cohen likens the demand to that of a kidnapper demanding a ransom in that, although it may be prudent to pay them, the resulting outcome can in no way be considered just. On this view, a Rawlsian account of justice may be a prudent form of societal organisation, but it is significantly flawed as an account of a just society.

Given this critique, Cohen argues that occupation-based incentives cannot be a feature of a just society, as their necessity rests with the choices of the talented members of society.² To illustrate, we might imagine the case of Alice, who faces a choice between two career options available to her: she could be a gardener or an entrepreneur. Assuming both occupations were equally arduous, were income and wealth to be divided equally so that both occupations paid £25,000 per year, Alice

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¹ Cohen. *Rescuing.*

² At least, this argument applies to jobs that do not involve some particular special burden.
would prefer to be a gardener. However, the other members of the society would be better off if Alice were to choose to be an entrepreneur, as this would enable a greater total sum of benefits to be produced, that could then be distributed throughout society. Were the role of entrepreneur to instead to pay £50,000 per year, Alice would be prepared to switch her occupation to become an entrepreneur instead. Provided the extra benefits accrued as a result in this shift in occupation are greater than the extra £25,000 paid to Alice, it appears that this situation would make everyone better off. So it would seem like the sensible thing to do in such situation would be to allow Alice the extra money so that she would choose the occupation of entrepreneur. However, Cohen argues that this approach allows Alice to escape the appropriate justificatory burden we may expect of a fellow member of our community, by treating her preference set as fixed. Yet, Cohen argues, it is wrong to regard it as a brute fact that must be worked around: Alice could quite easily take the role of entrepreneur for £25,000 per year. So, Cohen can argue that there is no inherent conflict between Pareto optimality and equality, and instead suggest that they are entirely compatible, given a certain pattern of agential choices. Thus, Cohen’s main claim is that something like the difference principle, which allows incentives where they will prompt socially useful activity, acts to shield the decisions of the talented members of society from scrutiny or criticism.

One significant objection to this argument is that such a society can only be achieved by restricting the free occupational choices of talented members so that they end up taking on the more beneficial roles. If the roles of entrepreneur and gardener were remunerated equally, why should Alice not be free to pursue her own wish of taking the role of a gardener? That is to say, it may be possible to demonstrate the compatibility of equality and Pareto optimality, but surely this can only come at the expense of liberty.

Cohen proposes an ethical response to this trilemma. It is not that talented people should be coerced into taking socially beneficial roles, but rather that, if they themselves are committed to the egalitarian sentiments of a principle such as the difference principle, they would choose to take the more beneficial role at an equal level of pay. So Alice, as a fully compliant cooperator in a just social scheme, ought to
be willing to become an entrepreneur without the extra £25,000 per year incentive. This solution cannot, Cohen insists, be said to involve an infringement upon Alice’s liberty, as it rests upon her own choice to comply with what she herself views as an appropriate egalitarian duty.

7.1.2 A Rawlsian response to the incentives critique

So, given Cohen’s proposed ethical solution to potential conflicts between equality, freedom and optimum productivity, does this mean that any form of market for labour is impossible to reconcile with an egalitarian form of cooperation? One attempt to argue against this conclusion from a Rawlsian perspective is provided by Jonathan Quong. Quong argues that Cohen’s proposed ethical solution cannot be solely motivated by concerns of egalitarian justice and so will be unable to succeed without demanding supererogatory behaviour from individual agents.

This can be illustrated by returning to the example of Alice, who faces the choice between pursuing a career as an entrepreneur or a gardener. Cohen wants to argue that an egalitarian commitment should lead Alice to choose to be an entrepreneur at a wage of £25,000 per year – the same amount that she would receive for being a gardener. Yet, as Quong notes, there is nothing specifically egalitarian in content in the choice to be an entrepreneur over a gardener. All that a strictly egalitarian ethos would require of Alice is that she refrain from demanding extra incentives in order to pursue socially beneficial activity. But a decision to be an entrepreneur at £25,000 per year rather than a gardener at £25,000 per year does nothing to make society more equal; it merely ensures that there will be more output to be distributed within society. Thus, rather than simply relying on an egalitarian ethos, Cohen’s ethical solution must also require a Paretian ethos.

Given Cohen’s insistence within the book that we must not confuse Pareto optimality with justice, it seems he cannot suggest that the demands of a Paretian ethos be considered components of justice, if they do not lead to gains in equality. Quong therefore charges that Cohen’s ethical solution is only workable if the talented members of a society engage in widespread behaviour of a supererogatory nature.

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Alternatively, were Cohen to suggest that a Paretian ethos were a component of justice, then this would appear to grant the other members of society an enforceable right against Alice, such that she must take the most productive form of employment available to her, thus infringing upon her freedom of occupational choice. Either way, it seems that expecting all citizens to forego any incentives is going to prove problematic.

7.1.3 The nature of occupational choice

Quong’s critique of Cohen succeeds in casting significant doubt over the attractiveness of Cohen’s ethos-based account of just social cooperation. As a result, it offers powerful normative support for the idea that justice may require an attempt to find the best balance between several competing values. Yet, there is a further line of critique that may be pursued in response to Cohen, which is to suggest that his account of ethical choice in occupation offers a misleading picture of the nature of situations in which such choices are made, leading to a mischaracterisation of the nature of differential occupational reward.

The manner in which this confusion occurs can be seen by returning to the choice of example used as indicative of occupational selection, and considering the ways in which this may not be thought to be truly representative of such choices, as experienced first-hand by agents in the real world. In the above example of Alice, she is confronted with a choice at one moment in time between two highly distinct options whose respective levels of personal reward and societal benefit are immediately obvious. She has full and clear knowledge of her preference set, her aptitude for the demands of each role and the possibility of success within each role. I shall refer to this as the transparent choice model of occupational selection. However, a reliance upon the transparent choice model leads to a distorted understanding of the functioning – both actual and potential – of the labour market.

There are a range of ways in which the transparent choice model may be thought to significantly over-simplify the actual manner in which career options are

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4 It is worth at this point noting the distinct similarities between Alice in this example and the ideal economic agent often employed within formal economic models.
evaluated and chosen. The first point of contention that could be raised is in regard to the measurement of social benefit. If individuals are to be expected to factor this into their deliberations over their career path – and to be prepared to take the most beneficial option open to them – then the respective levels of social benefit associated with alternative options needs to be clear. Even on the most reductive of resourcist perspectives, with social benefit measured purely in terms of economic output, significant problems have to be faced. Taking the example of an entrepreneur, would the benefit attributable to them include all of the output of any company they have founded, even where much of this output may be more closely attributable to specific employees? By what metric should the output of those employed in roles concerned with social reproduction (teachers, social workers, police officers) rather than material production be assessed? So, even apparently simple metrics cannot be said to provide simple solutions. But if the appropriate measurement were widened to be based on either a more extensive resourcist or a welfarist metric, then the potential for distinction becomes further confused. For instance, with the example of Alice, if she were a gardener contracted to a city government to help beautify its public spaces, she may arguably make a greater contribution to collective welfare than an entrepreneur. Yet, even were it to be proven that the entrepreneur’s contribution remained greater, the benefit provided by the gardener certainly seems more apparent and direct, which may lead people to over-estimate its value in considering their occupational choices.

If problems such as those outlined above are apparent within choices between two highly distinct occupations, it would be near to impossible where a choice is between several similar options. In short, in the absence of a pricing mechanism that provides (however imperfectly, from the perspective of society as a whole) an indicator of the value placed upon certain activities, the sort of assessments of societal benefit required for Cohen’s ethical solution to work would appear to remain rather elusive.

But this is not the only feature of the transparent choice model that is open to question. In the choice confronting Alice, there is no hint of the possibility of failure. She is granted sufficient knowledge of her own capacities (and their limits) to know that she will be capable of succeeding in either role. While each individual will always have some knowledge of their own abilities, the precise consequences of their choices
and their potential to succeed or excel in a particular career will not always be so readily apparent. For instance, although my own belief in my ability to pursue a career as a footballer was unable to survive beyond a number of distinctly mediocre performances for the school football team, many others – with far more credible hopes of success – will still have eventually failed to turn their not inconsiderable talent into a secure career. Similarly, many budding doctors will not make it to or through medical school, while many potential entrepreneurs will have ideas for products or services that nobody would ever want to buy. Such examples make visible the significant risks involved in making career choices – risks that are obscured within the transparent choice model. The attempt to pursue a particular career path may involve large investments of time or capital, and no little investment of personal pride, all of which are at stake within its ongoing pursuit.

Equally, the choice of one particular career will either close off other options, or at least increase the associated costs of a change of path. It will seem harder to become a surgeon for someone who has already spent several years training to be an architect or who already has a ten year career as a welder behind them, not in the sense that the barriers to entry become greater, but rather in that the total length of any individual’s career is going to be necessarily limited and many careers will require a significant time commitment to be truly rewarding. What this makes apparent is the extent to which the career options of an individual are, to a significant degree, uncertain, changeable over time and path dependent. Wage differentials can be hugely helpful to individuals in allowing them to navigate this kind of uncertainty, enabling them to personally evaluate the options open to them in terms of the associated costs, potential benefits and risks. Removing them would necessitate some alternative means for individuals to make calculations and assess their circumstances.

A return to the example of Alice provides an illustration. In conditions where differential reward is allowed, Alice can herself assess whether it worthwhile for her to pursue a career as an entrepreneur. Imagine she has an idea for a product she wishes to sell and calculates that it stands roughly a 50% chance of being the basis for a

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5 As the television programme *Dragons Den* makes readily apparent.
successful company. Yet, she is also aware that it will be a full two years before the business stands any hope of being profitable and, in that time, she will have to find a further £50,000 for product design, testing, development and manufacture. Two potential scenarios are illustrated in tables 1 and 2 below, assuming – for the sake of simplicity – a ten year overall timeframe for assessment.

Scenario 1 provides an example of a situation in which it would be prudent for Alice to take the option of becoming an entrepreneur, while in scenario 2 she would be better off by taking the job as a gardener. In both scenarios, differential pay is acceptable, so if the business is a success, Alice accrues more as an entrepreneur than she would if she were a gardener. Yet, because of the risk of failure and the costs involved in financing the company, even with such a reward, in scenario 2 this is not sufficient to make the choice to be an entrepreneur an attractive one – or even a responsible one. Thus, even the presence of incentives is not, on its own, sufficient to make it a wise choice for Alice to become an entrepreneur, unless the incentives are of a degree large enough to counter the costs and risks she would face. Note that this argument makes no reference to Alice’s attitudes and preferences (other than assuming a basic preference for more over less). It is not that she would refuse to be an entrepreneur without incentives, but rather that she would place herself in a comparable hardship, were a certain level of additional payment not available and so it would be an irresponsible decision of her to take this route.

How, then, might Cohen’s ethical solution deal with factors such as up-front cost and risk? Unless Alice is expected – in addition to taking the more beneficial role on ethical grounds – to also underwrite the costs of product development herself, it would seem that some form of collective support would be necessary. For, while it may be consistent with Cohen’s position to ask an entrepreneur to simply redeem back the initial costs of their enterprise and no more, this is only possible when the business is a success as, if it fails, they have no means to claim anything back. If an individual were themselves expected to bear the costs of a failing business, yet would gain no additional benefit for the business being a success, this would make starting a business a highly irresponsible act. So, in order to retain strong levels of innovation, some means to support the efforts of entrepreneurs would have to be found.
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<tr>
<th>Year</th>
<th>Gardener</th>
<th>Entrepreneur (success)</th>
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It is assumed here that Alice would incur no further costs if the product was not an immediate success, but would simply end the business. This would most likely not be the case with a real business. Having said that, if the business were not a success, Alice would probably find some other employment in subsequent years. Again, to simplify, it is assumed that such factors can be offset against each other.

The £50,000 development costs have been spread over the first two years. For simplicity’s sake, outcomes after year 2 have been equalised.

Given the 50% chance of success or failure, the expected payoff is calculated by adding the payoff if successful to that if a failure, then dividing this figure by two.
But, this then raises the issue of how to ensure the quality of proposals put forward. If there is not to be a guaranteed funding for the development of any potential product or service, then some means of judging which are of a sufficient quality to receive further funding. Obviously, this is not an insurmountable problem – procedures for things like the allocation of research grant money already work to assess the likely quality of proposed activity. Yet, it does raise questions about the ability to balance responsible choices, equality and innovation, and the ability to find a means of doing so in a manner that is fair, non-intrusive and not overly bureaucratic. Equally, the question arises as to why the necessary powers and processes should be collectivised, when a system exists that effectively devolves many such decisions to the choices of individual agents and balances the competing concerns of responsibility and innovation.

It might be objected here that the example of entrepreneurialism is an extreme one, with particularly high levels of uncertainty, and significant costs that must be borne up-front. Although it is undoubtedly true that these issues appear in particularly stark form in the example of the entrepreneur, in many other professions or occupations competition for jobs or long periods of training will serve to attach significant costs or risks to an individual’s choice to enter that sector. As a result, the difficulty of reconciling such factors with responsible individual choices will persist.9

### 7.1.4 Two responses

(i) Wage differentials remain unjust

One response that a defender of Cohen’s viewpoint might make to the above argument is that all I have done is to demonstrate in further detail some of the ways in which it proves prudent to employ differential wages. This does not in any way prove that it is just for individuals to be provided with additional reward on account of their particular capabilities. Yet, I maintain that the account above goes beyond simply demonstrating the prudence of a market for labour and career choices. Instead, it

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9 This reference to the idea of responsible choice is not intended to invoke a strong appeal to moral responsibility. In contrast to luck egalitarian distributive accounts, I do not suggest that distributive reward should track responsibility, but rather that it is essential for the ongoing stable maintenance of a society that individuals exhibit a general tendency to avoid reckless or wasteful choices.
shows that the sort of choices individuals are expected to make within Cohen’s ethical solution – that they will choose to pursue socially beneficial activity on the basis of fellow feeling – verge on being unintelligible in the absence of different levels of reward. That is, it is only through the signalling functions of the market that we are able to make informed judgements about the relative value of particular options and, in turn, how best our energies may be spent. The justification for additional reward is not to be found in such a pure motivational account of incentives as that on which Cohen’s critique is based.\footnote{This is not to say that a motivational argument in favour of incentives is never made, as I shall return to discuss in §6.1.5.}

(ii) The Carens market

Yet, if my argument is based upon the centrality of the signalling function of markets, a second response is open to an egalitarian critic. This would be to appeal to the idea – first put forward by Joseph Carens – of an economic system that, before tax, functions in the manner of a standard capitalist market, but one in which the taxation system is used to maintain complete equality through redistribution.\footnote{Joseph Carens. \textit{Equality, Moral Incentives, and the Market: An essay in Utopian politico-economic theory} (Chicago: University of Chicago Press: 1980).} Individuals respond to market signals in the manner they would under a non-equalised market in order to maximise their pre-tax income, doing so as a result of the motivating force of their egalitarian commitments. Thus, a Carens market would retain the signalling function of wage differentials without legitimating unequal outcomes. Does this proposal respond to the argumentative position I have advocated?

One response to Carens’ proposal is to question its practical feasibility. Although this may be pertinent to the overall attractiveness of the scheme, this is not the avenue I wish to pursue. Instead, I argue that a Carens market does not actually retain all of the signalling benefits of a more traditional market. This is because of the requirement that individuals should, on ethical grounds, seek to maximise their pre-tax income. It is clear, first of all, that this exhortation also falls foul of the critique Quong pushes against Cohen’s ethical solution. Such a demand cannot be viewed as anything
other than supererogatory. Yet, even beyond this, it should be noted that there is no analogous principle to this operating within a regular capitalist market. Of course, all other things equal, each individual will have a preference for more over less reward but this still gives agents significant leeway to decide how they want to balance this preference against other concerns. The fact that decisions differ from agent to agent depending upon each individual’s relative tolerance for risk and willingness to defer receipt of benefits is what enables the full potential of the signalling function of the market to be realised. The curtailed preference set expected within a Carens market – in which an agent is expected to maximise pre-tax output – will therefore lead to difficult decisions regarding the relative priority of short-term over long-term gain.

For an example of how such features might be problematic, consider the example of Brian, who works as a plumber, but wishes to be an inventor. Brian’s aim is to create a working hovering skateboard that could revolutionise personal transportation. After Brian has saved for a number of years, he quits his plumbing job to focus full-time on his hoverboard dream, able both to support himself and produce prototype versions of his desired invention. After two years of endeavour, Brian has still not been successful, as each of his attempts to build a hoverboard is a failure. He still has savings available, so can continue to pursue his invention, but recognises he may need to make some sacrifices in his standards of living in order to do so. If Brian is willing to make these sacrifices in order to continue to pursue his aim, with uncertain prospects for success, is this decision open to criticism on egalitarian grounds? His decision is not irresponsible, as he is not asking anyone else to bear the cost of his actions. Yet, his pre-tax earnings would be much higher (at least in the short-term) were he to return to plumbing. He may well be close to a major breakthrough, but given the failure of his previous attempts and the uncertain prospects for success, an outside judge might suggest that his efforts in plumbing would be more beneficial to society.

Examples like this pose a problem for schemes like the Carens market that attempt to replicate the levels of output and innovation of capitalist markets. If the success of an egalitarian society is dependent upon each individual maximising their productive output, then it seems that some scrutiny is required over the productive
choices individuals make. With the uncertainties present in many pursuits, the judgements involved in assessing cases like Brian’s, where output is directed towards potential benefit rather than apparent benefit, are fraught with difficulty. We could draw attention to many instances of situations where people have gone on to have great success, even after several informed judges have deemed their efforts not worth pursuing: Stephen King’s novel *Carrie* was rejected by about thirty publishers prior to publication before he went on to become one of the highest selling authors ever. Similarly, J.K. Rowling’s first *Harry Potter* novel was rejected by several high profile publishers, before becoming a worldwide phenomenon. The footballer Kevin Phillips was released by Southampton F.C. at the age of nineteen and played for two years in non-league football, before going on to become the first (and so far only) English player to win the European Golden Shoe award for being the top goalscorer in league matches in the top division of each of Europe’s leagues. One risk of a Carens market would be that people like this might be dissuaded from continuing to pursue their aims, instead feeling that their commitments to their fellow citizens require they take up a more immediately beneficial role. Thus, many beneficial long-term developments may never occur.

Yet, an alternative position that imposes a less rigorous interpretation of the requirement that individuals maximise pre-tax income – perhaps by allowing each individual a generous personal prerogative – is no less problematic. For, doing so risks undermining the fellow feeling upon which the basis of the whole system rests. Returning to the example of Brian, if he were allowed to continue pursuing his aim of building a hoverboard, even after initial failures, consider how this might be viewed by other members of the society. Think how Alice might feel, if she were – out of a sense of her egalitarian duty – working as an entrepreneur rather than a gardener, upon seeing that Brian is not similarly pursuing the most productive option open to him. As noted in previous chapters, the commitment of individuals to moral rules is, to a significant degree, shaped by the adherence of their fellow citizens. In this regard, any system in which the extent of general compliance is not publicly visible is unlikely to

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be capable of commanding a stable commitment over time. Thus it would appear that, in the presence of uncertainty, a Carens market will either involve some compromise upon levels of innovation or upon stability and so will fail to realise all of the signalling benefits of a capitalist market.

7.1.5 The value of the incentives critique

The above argument suggests that Cohen’s characterisation of arguments in favour of incentives is misplaced. In many cases, the basis for differential pay is not purely a motivational matter, but rather a means to enable individual agents to make responsible choices in the face of uncertainty without damaging productive innovation. However, this argument is not one that can be used to characterise all instances in which an appeal is made to the idea of incentives. For instance, where this type of appeal is made in order to oppose progressive taxation upon income, then Cohen’s account of the incentives argument may still hold. For, although such a tax regime might exert a dampening effect upon the signalling function of market prices, only under an extreme tax regime is this likely to completely upset the overall functioning of markets.

My argument for the acceptability of differential pay is based on the fact that prices convey important information that allow individual agents to make free, informed and responsible choices about the actions they wish to pursue in the circumstances they find themselves in. While, for a system like this to be effective it does require a presumption that some people will come to change their behaviour on account of the additional reward available, its justification is not based upon explicit appeal to motivational factors, but rather upon the enabling of agential choices. This contrasts with the arguments lying behind the incentivisation of particular tasks within a workplace, or the suggestion that certain people will not work as hard without additional pay, both of which are based on an attempt to control behaviour through appeal to a comprehensive motivational link between individual behaviour and extrinsic reward. Thus, we can make a distinction between a doctor or entrepreneur

enjoying a higher salary than they would in an alternative occupation and a multimillionaire business-owner who threatens to close his profitable business or move it abroad on account of the level of taxation levied upon his company’s profits. In the former case, the outcome is a result of the need to convey certain information to agents about factors such as risk or difficulty, while in the latter the appeal is solely to the sort of kidnapper’s logic criticised by Cohen.

This allows for a clarification of one of the main reasons why some liberal egalitarian positions are happy to allow for a labour market based upon differential wages: such a market provides the conditions in which individual agency with regard to occupational choice can be protected. For, while it may be possible to maintain levels of material equality without significantly compromising overall levels of productivity, this would only be possible by employing some form of collective oversight over the occupational and productive choices of individual agents. Thus, it risks robbing agents of the sense of self-direction that is important for them to truly understand the choices they make as their own. Protecting this sense of self-direction can be seen to clearly link to the second of the two moral powers identified by Rawls: being able to form, hold and revise a conception of the good seems to require a form of social organisation that allows people to comprehend the opportunities and risks that face them and act on them as they themselves see fit.

The interest each individual has in securing conditions that protect this sense of individual agency can be greatly beneficial for us in our understanding of the most appropriate form for the organisation of productive activity. The following two sections will explore some of the components.

7.2 Inequality and market signalling

One initial consequence of suggesting a market framework as a background that enables individual agents to effectively evaluate the choices open to them is that it concedes that others will always be allowed an opportunity to exert influence over our decisions. Although one of the principal purposes of utilising systems of prices to convey information is that it allows for individuals to adjust to changing
circumstances, one of the circumstances this will make them sensitive to is the ability and willingness of others to pay for the provision of particular goods and services.

Consider an example: Catherine has a spare afternoon and decides to take a walk to the park. On her way, she passes a block of flats in which David lives. David has just bought a sofa and is trying to get it up the stairs to his first floor flat. As Catherine passes, David asks if she would be willing to assist him. Having just spent a lot of money on the sofa, all David can provide in return for her help is to offer to buy her a drink once they have finished moving the sofa. Catherine considers the offer, but decides that a drink is not really worth sacrificing her afternoon for, so politely declines and continues with her walk. Now consider the exact same scenario but, rather than a drink, David on this occasion has a little more money and so is able to offer Catherine £25 for her time. In this instance, Catherine might decide that, although still keen to walk to the park, she would rather have the money and so would be willing to assist David. Now consider a third version of the example in which David is a wealthy individual, so is able offer £100 for someone to help him. Rather than waiting until someone passes by his flat, David instead puts up a couple of posters in the neighbourhood advertising the opportunity. On this occasion, before reaching David’s flat, Catherine has already seen a poster and abandoned her plan of walking to the park, instead actively seeking out David in order to offer assistance to him.

In each of these examples, the work that needs to be done remains the same, as do the preference sets of the two protagonists. Yet, Catherine’s actions differ in each example purely on account of the amount of resources David has available to persuade her to help him. The concern, therefore, is that even if markets provide an effective informational calculus that aids individual agency, the relative strength of the messages individual actors receive may become significantly distorted if there are significant concentrations of wealth. To put it another way, we might suggest that the needs of the poor could become outweighed by the whims of the rich. The argument outlined in §7.1 is based on the assumption that prices can be regarded as providing a genuine indication of social utility, the suggestion being that more beneficial activities should be those that accrue the greatest reward. Yet, it is quite conceivable to imagine a situation in which the market would provide a greater reward for being a stylist for the
dogs of wealthy clients than working at a childcare centre in a poor neighbourhood. Even those strongly committed to advancing the relative claims of animal welfare would probably have to concede that, in such a situation, the claim that markets allow for the realisation of optimum social benefit is fanciful.

This therefore points to an interesting feature of the justification I have been advancing for the use of markets. As a means of coordination of productive activity, the market achieves greatest normative support when each market participant has roughly equal spending power as, at this point, the signals sent by pricing information will be most likely to provide the fairest overall picture of required or desired goods. Yet, if this is the case, then widening inequality begins to erode the justificatory basis for market interaction, as more focus, and so the labour of a greater section of the population, becomes dedicated to the provision of luxury goods and services that can only possibly be accessed by a few extremely rich people. If this occurs while, at the same time, other people are struggling to meet their basic needs, then the claim that market prices are providing effective signals to enable an efficient use of resources starts to be highly suspect. Thus, any justification for market activity that is based upon epistemological claims about its ability to disseminate accurate information about productive needs would appear to only provide limited support to an argument in favour of the use of the market. And, where large inequalities can be shown to have shifted the balance of productive activity so that it is no longer addressing the basic needs of a population, the focus of this argument might shift from a defence of the market towards the promotion of redistributive activity.

Thus, although I have argued against an outright rejection of the market, my position only endorses a limited claim in its favour. It is only through a limit upon the relative spending power of citizens that the full value of market arrangements can be realised.\textsuperscript{14}

\textsuperscript{14} Notice, though, that on this account we should be more concerned with the distribution of wealth than of inequalities in individual income.
7.3 Agential choice and social evaluation

The argument I have outlined in favour of the use of the market is based on its value in providing the conditions within which the free choice of individual agents can be protected without incurring significant productive deficiencies at a societal level. In the above section I confronted the concern that such an account extends too great a power to the wealthy to shape the behaviour and preferences of individual agents, suggesting that this gives us good reason to care about large disparities in spending power. But, a variation on this worry still remains. If the legitimacy of market transactions is predicated on the fact that it leads to outcomes that are both freely chosen and socially beneficial, then much hangs on the validity of choice in establishing the consent of an individual agent to the outcome. Is the mere presence of a choice sufficient to establish the acceptability of what entails? In this section, I briefly outline the economic view that simply equates choice with consent, before examining a critique of this position by Fabienne Peter. Although in agreement with Peter’s argument that evaluation needs to broadened to include the choice situation itself, I believe Peter’s account does not go far enough in considering the possibility of evaluating choice-sets within market interactions. Thus, I spell out how we might be able to proceed in evaluating choice sets within the labour market.

7.3.1 The economic account of choice

One of the major attractions of market institutions for many of their defenders are that the presence of choice can be used to establish the voluntariness of the actions of market participants, hence lending some legitimacy to the resultant social outcomes. The fact that an agent selected a particular outcome when an alternative was available can be taken to demonstrate that the agent finds this outcome preferable. Similarly, where an agent finds a situation or a product unsatisfactory, they have the option of moving to take up an alternative. The presence of these exit options is what legitimates the situation and prevents it from becoming oppressive or coercive.

For an example in relation to productive choices, we might imagine the example of Edward, who faces the choice of working as a security guard, a checkout attendant or a hotel porter. The fact that Edward decides to work as a hotel porter does
at least demonstrate that he finds this option preferable to working on a checkout or as a security guard. Were Edward to express dissatisfaction with the job, despite it being exactly as advertised, it could be put to him: “You were aware of the terms and conditions of the post and still willingly chose this role over the available alternatives. No force or coercion was involved in this decision. Therefore it can be taken that you have consented to performing in this position. If you are dissatisfied, the option remains for you to leave this post and find an alternative job.” Thus, the voluntary nature of Edward’s decision between alternatives is taken to imply his consent to the position, and its associated demands and rewards.

7.3.2 Why choice may not equate to consent

Yet, one significant problem of this simple equation of choice with consent is identified by Fabienne Peter:

Since the preferences on which choice is based are restricted to an evaluation of the alternatives in the feasible set and do not say anything about the goodness or badness of the conditions under which one chooses, it takes quite a leap to derive consent to the institutional features which shape the set of alternatives from a choice between these alternatives.15

This problem can be seen more clearly if we return to the example of Edward. If all three of the occupations facing Edward are in some major way inadequate for his purposes, then it seems to stretch the idea of consent to assume that his choice of the least-worst option implies full consent to all aspects of that role. Imagine, for instance, that the security guard position would require long shifts that would make it impossible for Edward to fulfil commitments to his family. Meanwhile, the checkout attendant position may not pay enough to enable Edward to support his family. But, supporting his family does require that Edward get a job. Hence, even if the hotel porter’s job involves lifting a lot of heavy luggage, which aggravates a longstanding back complaint that Edward has, leaving him in pain at the end of each shift, he may still judge this position to be better than the available alternatives. Since none of the

options in the choice set facing Edward are truly acceptable to him, the fact he still makes a choice does not seem capable of bearing the weight of legitimation required to be able to say that he has consented to the outcome and has no grounds for complaint about the work he has to undertake.

Peter suggests, therefore, that when we are seeking to evaluate social outcomes, in particular outcomes resulting from the operation of markets, we must go beyond simply accepting chosen outcomes. In pursuing this aim, she takes as her basis a Rawlsian distinction between coercion and voluntariness based upon the circumstances in which agreements are made. Rawls insists that obligations cannot arise as a result of agreements that take place against a background shaped by unjust institutions. In such conditions, the worth of the liberty that is exercised in a choice act is insufficient to demonstrate that the chooser considers the outcome wholly legitimate. It is only against just background conditions that these acts may be taken to genuinely indicate consent.

This does, though, raise the question of what aspects of the choice situation are relevant to establishing the legitimacy of market interactions, and the extent of the injustice required to negate the role of individual choice. Peter’s response to these questions is to draw attention to the other principal means of dissent identified by Albert Hirschman – rather than focussing on the presence of exit options, she turns her attention to the relative availability of the voice option. This, rather than an attempt to avoid or escape an unsatisfying situation, marks the aim of trying to change it via an expression of the objectionable features that are present. In regard to the institutional makeup of a society, then, Peter’s account stresses the importance of inclusive processes of democratic deliberation, as the means by which dissent with constraints upon available choice may be expressed.

The advantages of this approach are that it avoids having to make a specific evaluation of a situation based upon an assessment of whether the options facing an agent are adequate. It does not attempt to define the interests or objective needs that must be protected within a choice situation. Nor does it try to define what an adequate

choice is. Rather, it stresses the need for it to be possible for people to have a means of expression for dissent about the constraints upon the choices that face them. However, although I agree that legitimate market outcomes must be amenable to some degree of democratic control, I believe that some particular market-based outcomes may still be amenable to evaluation based upon the choice profiles they present to agents, as I shall now explain.

### 7.3.3 The distribution of exit options

In the discussion above, a distinction – taken from Albert Hirschman – was introduced between exit and voice as different means of expressing disapproval or dissent. Exit is typically stressed in economic situations, where the ability to move to an alternative option provides a means for agents to express dissatisfaction with the current situation on offer. Meanwhile, the voice option is more typically associated with political activity and the attempt to work to improve a situation by listening to complaints or concerns and attempting to address them. Peter’s argument, as outlined above, is that social evaluation should be largely carried out via the voice function, rather than assuming the presence of exit options in the market will be enough to ensure acceptable outcomes. For this solution to be effective, though, it requires that the institutions of democratic government are fair and effective in capturing and responding to the opinions of dissenting voices. But, as with responses that appeal to fair distributive background conditions, even if correct, this response tells us little about how we might evaluate market-based outcomes in situations where democratic institutions do not function in a wholly fair manner.

In particular, we need a means to assess markets with explicitly political dimensions to them. As I outlined in Chapter 4, the labour market takes such a form, given the fact that it is a non-clearing market, with the ability to shape the preferences of the agents within it. As such, where background conditions and democratic institutions are not fair, there is the possibility for deeply unjust social structures to not only exist, but to do so in a relatively stable manner. Political theory ought to be capable of making it possible to evaluate and assess such situations, and to be able to identify appropriate responses, independently of diagnosing background injustice or democratic shortfalls. I argue that this is possible by focussing upon exit options, not in
order to assess their quality, but rather to consider their distribution within a particular market.

To consider the example of labour markets in more detail, it can be shown how imbalances of power within the structure of a particular job market will translate into concerning distributive patterns of exit options. Suppose that Fiona is seeking to employ a new chef for the restaurant she owns and has three applicants for the post: George, Harry and Isabelle. Fiona judges that she would be happy to give the post to any of them as all three would be capable of performing satisfactorily in the job. This clearly places Fiona in a favourable bargaining position, as having three viable candidates for one job will allow her to exert some pressure upon the terms and conditions offered with the job, and certainly will prevent her from having to acquiesce to any demands that the individual candidates might make. Yet, having viable alternative options is not simply a benefit at the point that a job is offered: if an employee knows they can easily be replaced, they may be more compliant within the job, and more reluctant to raise issues with their employer. Thus, it is in Fiona’s interest to use her improved bargaining position to try to ensure that exit from the employment relationship is as easy as possible for her. She might offer the candidate the role for an initial probationary period, or on a temporary contract. She might try to make it easier to terminate the employee’s contract or insist upon imposing a short notice period upon them. Where conditions are favourable to employers, then, it is likely that there will be a greater use of casual and flexible labour, and that pressure may be brought to bear upon employment rights.

Alternatively, let us suppose that of the three applicants for the job Fiona is offering, Harry is by far the outstanding candidate, with significant prior experience in a top kitchen. But suppose also that Harry’s expertise has also interested another restaurant owner, Jenny, who would also like to recruit Harry for her kitchen. In this situation, as well as trying to seek the best deal possible from one of the two potential employers prior to choosing which restaurant he wishes to work in, subsequent to making the decision Harry may choose to retain contact with the other restaurant, in case his initial decision does not work out. In both of these example cases, we can see a tendency for the party in the stronger bargaining position to try to retain as many exit
options as possible, even once the working relationship is established. Given the incomplete nature of employment contracts, maintaining the threat of exit is one powerful means to exert power over the day to day conditions in which a role is conducted. Thus, the ability to hold on to exit options provides a strong mechanism through which parties on the short side of a market will be able to secure and maintain advantages for themselves over time.17

Given my defence of market institutions has been based upon their role in securing the conditions for effective individual agency, it might be expected that this would commit me to attempts to promote the number of options available to each individual. Yet, this would be to mischaracterise the nature of choices within employment. Once an employment relationship is established, the choice to actually exercise the exit option has a zero-sum character, where the choice of one agent forces another agent to make use of one of their own alternatives. For example, if Karen chooses to lay Larry off, or chooses not to renew his contract, this denies Larry any options regarding the ongoing performance of the job. Similarly, if Larry decides to exercise the option to resign from his post, then Karen must find an alternative option. The choice to exercise the exit option from a working relationship will, of course, be easier for those possessing many alternatives, while those with fewer options will be keener to see the relationship persist.

These considerations may, then, give us reason to worry about large inequalities in the distribution of exit options within a particular labour market. Those on the short side of this market may be most able to exert influence upon the shape of contractual relations, and hence to be able to shape the overall character of the employment role. But, in addition to this, they may also possess a disproportionate ability to undercut the plans of other agents. Where this occurs, it would appear to grant a worrying degree of power to certain market participants. This can best be seen by considering a market situation in which one side (the employer or employee) both possesses and regularly makes use of significant exit options. So, we might consider

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17 Equally, attempts might be made to block the exit options of the party on the other side of the market, in order to negate some of their power. For instance, trade unions may wish to make it harder to fire individual workers, so as to prevent employers from using this as a threat.
the manner in which employees are affected by an employment market characterised entirely by the use of short-term contracts and casual labour. It would seem hard, in such a situation, for any worker to feel a genuine sense of agency and self-direction over their working lives.¹⁸

At this point, it seems apt to recall Rawls’ brief comment about work from the Introduction to the Paperback Edition of *Political Liberalism*:

Lacking a sense of long-term security and the opportunity for meaningful work and occupation is not only destructive of citizens’ self-respect but of their sense that they are members of society and not simply caught in it.¹⁹

In Chapter 5, I expressed doubt about some of the grander claims advanced by theorists on the basis of this single comment. However, if Rawls’ remark about meaningful work can be taken to have any determinate meaning, then it would appear to mandate each individual at least a measure of control and choice over the direction and content of their working life. If this is the case, then an assessment of the distribution of exit options within an employment market provides a key means for evaluation of that market situation.²⁰

One further point that must be noted here is in regard to the interaction between care work and models of employment. Many individuals and families face complex decisions about how best to manage family life and the care of young children or sick relatives. They have to find ways of combining caregiving with work. This may require the purchase of care services from elsewhere or that particular individuals

¹⁸ For an alternative example where it is the employees that have much the better bargaining position, we might consider the example of professional footballers. All but the very biggest clubs have had to resign themselves to a situation where their best players are likely to move on to a larger club offering a higher salary the moment such an opportunity arises. As a result, the ability of these clubs to develop a stable, successful team is always under threat.


²⁰ In a recent work, Debra Satz outlines an approach to the evaluation of “noxious markets”, based on an assessment of both the levels of harm the market produces and the structure of market participants. She argues that the parameters of weak agency or vulnerability of participants may provide grounds for market intervention. Satz. *Why Some Things*. pp. 94-99. In some ways, my argument within this section is similar, in that it attempts to evaluate the underlying situation that structures interactions between market participants.
within families (more often women) have to scale back their activity within the labour force, which may in turn be harmful to long-term career prospects. It is important that assessments of options across markets find a means to be able to conceive of how caregiving needs might compromise the available option set for some market participants. The aim for social and labour market institutions should be a situation of relative parity of options for all individuals, irrespective of gender, in both family life and paid employment.\(^{21}\)

### 7.3.4 Voice within employment

It may be objected that the above argument is too quick to concede ground to the economic means of evaluation. Rather than confining the voice option to society-wide democratic procedures, it might instead be possible to instead open up workplaces themselves to more democratic forms of organisation. So, the assessment of exit options suggested above would be unnecessary if workplaces were more amenable to dissenting voices. There is also clear evidence that workers themselves appreciate the opportunity to have their voice heard within their workplace.\(^{22}\)

Yet, although moves towards greater democracy within workplaces may be welcomed, they should not be seen as being in opposition to the sort of market evaluation advocated above. This is because the effectiveness of voice within an organisation cannot be regarded as being wholly independent of questions regarding the availability of exit to different agents. For, as Hirschman notes, “easy availability of the exit option makes the recourse to voice less likely.”\(^{23}\) If an individual worker can easily move to another firm, or an employer can simply recruit a new member of staff, the willingness to put significant effort into the ongoing relationship will be


\(^{22}\) Richard Freeman & Joel Rogers. *What Workers Want* (London: Cornell UP: 1999). Based upon an analysis of the results of the Worker Representation and Participation Survey, a large survey of American worker attitudes, Freeman & Rogers report that, “dissatisfaction with say at the workplace is… intrinsically tied to how workers feel about other aspects of their jobs and employers.” p.47.

\(^{23}\) Hirschman. *Exit*. p.83
diminished. But, at the same time, “the effectiveness of the voice mechanism is strengthened by the possibility of exit.”

This is to repeat the above point: that being on the short side of a market – and so having the greater number of alternative options – will provide more bargaining power within the discussions that shape the way an organisation functions.

This means that, in conditions where exit is too easy for some or all of an organisation’s members, it is highly unlikely that the offer of some form of democratic participation within the organisation would be either effective or fair. As Hirschman notes, the conditions in which agents are most likely to use the voice mechanism, and in which it is most likely to be effective would be found in a situation where, “there should be the possibility of exit, but exit should not be too easy or too attractive”. This would appear to suggest a degree of coherence between the aim of structuring a market so that individual agents within it have a degree of both control and choice with working organisations that are organised in a more open, collaborative manner. As a result, workplace democracy as a goal remains wholly consistent with the evaluation of employment markets through an assessment of the distribution of exit options. Yet, without some means to also assess the market processes that influence working relationships, a democratic workplace may still be unable to offer workers a fair and equitable working environment.

7.4 Conclusion

In this chapter I have considered why, despite their risks, we might still consider markets worthwhile from a normative perspective. I suggested that all attempts to reconcile the practical productive gains of markets with fully egalitarian distributive

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24 Ibid. Emphasis in original.

25 It might be noted that the implications of this point extend to the operation of democracy at state level as well. One effect of globalisation has been to allow certain economic actors greater access to exit options from the control of democratic governments over their economic affairs, which has exerted downward pressure on corporate taxation and regulation. Whether this poses a genuine threat to democratic sovereignty is too large a topic for me to deal with here, but for an argument to this effect, see D. Rodrik. The Globalization Paradox: Why global markets, states and democracy can’t coexist (Oxford: Oxford UP: 2011).

26 Hirschman. Exit. p.83.
solutions must, in some way, rely upon a centralisation of value judgements that will undermine or override individual agential choices. Thus, what is of most value within market arrangements is their ability to respect individual agency while producing significant practical gains. This does not, however, justify unrestricted market activity, but rather a concern for markets to operate in a manner that retains a recognisably egalitarian character and one that can be scrutinised to ensure an acceptable distribution of choices is available to all its participants. The following chapter provides an indication of how this might be achieved within labour markets.
Chapter 8: An Outline of a Rawlsian Approach to Employment

In the previous chapters, I have clarified some of the key normative dimensions of employment markets and the organisation of productive labour. My aim has been to help outline various ways in which the treatment of individuals within production may fail to meet important moral demands. In what follows I explore a range of different options that might help to address such problems from a Rawlsian perspective. In keeping with my earlier arguments, however, I do not simply set out a response that answers concerns in a purely ideal form. As a result, the following section contains a range of responses, starting with the more ideal – responses that would require wholesale societal restructuring – to those that are pragmatic, small-scale reforms. The exact formulation of policies may still require local assessments of considerations of practical and political feasibility, but it is still possible to suggest a range of strategies that may be capable of offering some amelioration, depending upon the precise circumstances. These suggestions are organised so that the more far-reaching, but less immediately feasible, strategies are outlined first, with the proposals that make greater concessions to nonideal circumstances described subsequently.

8.1 Background distribution

As I detailed in Chapter 1, Rawls pays very little direct attention to issues regarding employment. This does not mean, however, that his scheme is wholly oblivious to concerns about how citizens may come to be treated in an employment market. Indeed, he notes explicitly that, “excess market power must be prevented and fair bargaining power should obtain between employers and employees.”1 Yet, this is not achieved by a direct focus upon the structure of employment relationships. Instead, the goal is that conditions of fair bargaining will be ensured by the general operation of the institutions of the basic structure.

The most significant factor, secured by the difference principle, is the maintenance of a fair distributive scheme that prevents the accruing of massively unequal gain. Earnings of a scale that might threaten the maintenance of basic justice would be subject to progressive taxation, with the proceeds being used to ensure a decent social minimum for all. This has two important effects in the consideration of employment relations. Firstly, it starts to undermine the incentive for talented individuals to use their superior bargaining power to gain a better deal for themselves, as they will be aware that any additional income they accrue will be hit harder by progressive taxation. Secondly, the assurance of a basic minimum for the worst off means they will not be forced into taking positions with hugely unfavourable terms and conditions, therefore preventing employers from driving down working conditions for unskilled posts.

In this manner, a fair distributive background would provide a context in which individual market choices would be capable of legitimating chosen outcomes. This is because the assurance of a decent basic minimum would remove the possibility of coercive pressure pushing people to make choices they are not happy about, while control over the extent of wealth of the richest within society would remove concerns of excess power residing in too few hands. Thus, attention to the distributive background may be the most effective means of addressing normative worries about the operation of labour markets. Yet, it is also the solution that would probably require the most far reaching societal reform to achieve. So, as I argued in Chapter 1, it seems necessary to also consider alternative solutions that might respond to the same concerns in situations characterised by unfair distributive background conditions.

8.2 Democratic voice

The second solution to concerns about labour markets, consistent with a Rawlsian perspective would be that suggested by Peter, and discussed above: that market outcomes may be considered to be legitimate if all of the participants have access to a sufficient opportunity to make any dissent heard through a fair and open democratic process. Although it is certainly the case that market outcomes should be subject to democratic scrutiny, there are problems in using this as the principal means for dealing
with employment and productive organisation. In particular, it would appear that
deficits in background distributive justice that might undermine conditions of fair
bargaining and lead to negative outcomes within employment will also be
impediments to fair access to democratic institutions. It would seem therefore that,
while the democratic process may provide a useful outlet for dissent, it is unlikely that
it can completely solve imbalances in labour markets, unless the political liberties of all
citizens can be assured to be of fair value. As a result, any appeal to democratic
procedures would probably need to be supplemented by other measures.

8.3 Workplace democracy

One suggestion for how to supplement the democratic political process would be to
simply extend the range of activity subject to democratic organisation. Thus, it might
be argued that the proper response is to reorganise economic activity in a more
democratic manner. There are, though, several ways in which this could proceed: it
might be focussed primarily on the ownership and control of productive resources, on
the form and structure of firms, or on their mode of operation. I briefly discuss each of
these possibilities.

8.3.1 Ownership

As discussed in Chapter 4, when looking at the ongoing development of the capitalist
economy in the nineteenth century, John Stuart Mill came to hold the view that the
capitalist firm was an outdated social form that would soon come to be replaced. He
believed that cooperative associations would come to be more attractive, given the
greater control they would offer to workers, making it, “not probable that any but the
least valuable work-people will any longer consent to work all their lives for wages
merely; both private capitalists and associations will gradually find it necessary to
make the entire body of labourers participants in profits.”[2] And, given their greater
stake in the success of the cooperative firm, workers would be more inclined to work
harder, which would, Mill thought, give them a productive edge over capitalist firms.

2 Mill. Principles. p.791
Although the capitalist firm has remained far more resilient to the pressure to share profits than Mill predicted, given the Rawlsian commitment to fair distribution, it would appear that there is a clear link between justice as fairness and a broader share of ownership in productive assets. Indeed, broader productive ownership forms a key feature in much of the work attempting to further develop the Rawlsian notion of a property-owning democracy. Yet, it should be noted that there may also be losses to individuals in attempts to provide them with an ownership stake in the organisations for which they work. As the argument of the previous chapter makes clear, the ability to exit from an unpleasant situation remains an important safeguard for individuals in their economic affairs. While my principal claim is that an unrestrained appeal to exit within employment is highly problematic, it would seem equally troublesome for this option to be denied, or to only be available at significant cost. If every worker has an ownership stake within a firm, although it may increase their identification with the firm and so make them less likely to want to leave, it is likely to significantly complicate the process of exit, were they to wish to take it. In light of this, any attempt at broadening ownership of productive assets must be cognisant of the potential trade-off with worker freedom and careful to consider the precise design of reforms.

Similarly, any attempt to broaden ownership must consider the extent to which an ownership stake would require of individuals that they participate in strategic decision-making. For, although most workers would appreciate a greater degree of control over the decisions affecting their own particular role, they may have little desire to be deeply involved with all manner of commercial decisions. Indeed, in the same way that representative democracy frees citizens from having to commit their time to considering the entire range of issues affecting a society, the manner in which individual workers would be expected to contribute to the overall running of a firm they have an ownership stake in would need to be given close consideration.

Overall, then, although an effort to grant workers a greater stake within productive ownership would fit closely with the distributive aims of Rawlsian theory, this should be pursued with the overall aim of providing each individual a greater

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degree of agential control over their productive efforts and so should not come at the complete expense of individual choice. Equally, while attempts at reform of productive ownership are not entirely unrealistic, they remain a rather far-reaching long-term goal.

8.3.2 Structure

In Chapter 5, one of the Rawlsian approaches to work that I considered was advanced by Samuel Arnold, whose contention is that the difference principle should range over the full range of primary goods, including that of powers and prerogatives of offices and positions of responsibility in the political and economic institutions of the basic structure of society. As a result of this, Arnold believes that the difference principle requires that economic organisations ought only to deviate from an egalitarian form of organisation, with power equally distributed, when this can be justified via gains to the worst-off within society. He therefore suggests we should reject what he terms the “detailed division of labour” and aim for a less hierarchical and specialised form of productive organisation. We might regard this suggestion as advocating a more democratic structure to productive organisations.

I have previously contended with the theoretical basis of Arnold’s argument. Here, however, I wish instead to comment upon his discussion of hierarchy, as I believe it is representative of a confusion about the nature of hierarchy in working relations. In arguing against the detailed division of labour’s contribution to increased efficiency, Arnold suggests that:

Arguably, hierarchy and specialization provide diminishing efficiency returns as they increase in intensity. Indeed, past a certain point, the costs of specialization and hierarchy—such as the increased need for expensive systems of surveillance and control to extract work effort from demoralized employees—promise to outweigh the benefits.

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4 Arnold. ‘Difference.’

5 Ibid. pp.111-112.
Yet, the link posited between hierarchy and surveillance seems rather overstated. As outlined in Chapter 6, the need for impersonal mechanisms of surveillance, monitoring and control become greater when direct oversight of a worker’s performance is impossible. This situation might actually be worse in situations characterised by flatter hierarchical profiles. If a single supervisor is responsible for managing a team of fifty workers she would require more intensely impersonal and formalised systems of scrutiny than a manager with responsibility for a team of three workers, who may be able to achieve a large amount of insight into the work of her team simply through personal observation and interaction with them.

It is not, I suggest, simply the presence of hierarchy, but rather the nature of hierarchical relations that will determine the character of working practices. Multilevel hierarchies, in which experienced workers are granted oversight of the work of others, and are able to share advice and expertise in a personal manner may actually be preferable to more apparently egalitarian forms of organisation, where more impersonal forms of control are required. Of course, the great danger with granting individuals power over other workers in this manner is that they will not exercise it in benevolent ways, but will instead use the power they are granted in an autocratic manner. However, as I will now consider, this danger might be eased by the presence of democratic voice in other forms within the workplace.

8.3.3 Operation

The above argument, favouring associational over bureaucratic forms of workplace organisation and coordination, does require that workers have some recourse against personal abuse of positions by superiors. This suggests a need for some form of democratic voice to be integrated into the operation of firms and workplaces. Yet, two clear possibilities exist for how this might be achieved: the actual form of a firm and its procedures could be designed such that opportunities for consultation of workers are provided; alternatively, workers could be assured of independent representation in the form of organisations such as trade unions.

In regard to the former possibility, this would involve workers’ views being considered as part of the decision-making processes within a firm. It could certainly be a possibility for workers to be consulted upon any decision that would affect their
particular role. Yet, a unity of interest between any single employee and the organisation that employs them cannot be assumed. A firm cannot, and indeed should not, be seen as a vehicle for the satisfaction of the interests of all involved in its operation. The material benefits that provide one component of the justification for the use of economic markets ultimately are dependent upon the fact that certain interests have to be compromised for the sake of practical gains. Equally, as noted in §7.3.4, democratic consultation within a workplace is not independent of the overall bargaining situation between parties. As a result, although consultation within workplaces may help to improve the satisfaction of workers, it cannot be completely effective as a normative safeguard.

This means that, while consultative processes within a workplace may be desirable, it is far more essential that workers have access to some form of independent representation, such as that provided by trade unions. In situations where fair bargaining cannot be assured due to the structure of the market and prevailing background conditions, such access provides a key component in legitimating the resulting market outcome.

It might be objected at this point that the activities of trade unions could itself come to pose a threat to the exercise and development of the moral powers of individual citizens. That is to say, trade union activity may serve to undermine the ability of individual agents to effectively make choices for themselves. Meanwhile, the collective bargaining of unions might be the means by which short side bargaining power is exploited. In short, unions may be the agents of injustice, rather than the means by which workers can exercise their voice over the conditions of their work. This is a distinct possibility, one that suggests that unions themselves should be subject to clear regulation and oversight, and that major disputes between unions and employers be referred for arbitration by an independent body. But, given a consideration of prevailing market conditions, it should be possible to make a judgement of whether union activity does lie within reasonable bounds. However, it would seem that the greater danger is of large numbers of workers having their

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interests largely disregarded due to not having access to adequate representation – or even having such access actively obstructed.

8.4 Regulation

Typically, liberal egalitarian theoretical approaches aim to avoid direct regulation of individual behaviour wherever possible, preferring to create the appropriate background conditions such that overt control is unnecessary. As has been shown, in regard to labour markets, this means providing fair bargaining positions via aspects of the basic structure such as fair distributive positions, fair equality of opportunity and the provision of a basic social minimum below which individuals will not be allowed to fall. Such provisions would then render significant regulation of labour markets unwarranted, as each individual’s choices could adequately be considered to indicate free consent to the terms and conditions of their work. Indeed, as Samuel Freeman notes, “for the labouring least-advantaged, Rawls evidently opposes (under conditions of a well-ordered society) a fixed minimum wage that employers must provide, for it discourages creating new employment positions.”

7 Given the prevailing background conditions, it would be the case that employers find they have to offer relatively good wages, as workers would not be in a position where they needed to take a job paying less than a decent minimum, but it is not necessary for this level to be set by regulation. It seems natural to suppose that other regulative activity, of things such as contractual terms or working hours, would be similarly opposed.

Yet, this presumption against regulation seems far less sound in situations where background justice cannot be assured, as Freeman himself notes.8 If all of the choices facing individual workers are inadequate, it seems that they are in fact compelled into an unsatisfactory situation, even if the specific option taken is freely chosen. As markets may be structured such that certain parties bear distinct

7 Freeman. Rawls. p.231.

8 The preceding quote is accompanied by the following footnote: “This does not means that Rawls opposes the minimum wage under less than ideal conditions, such as our own. It may well be the only practicable way in the U.S. to maintain a decent living standard for unskilled workers, given middle-class aversion to public transfer payments to the least advantaged.” Ibid. p.500. fn.22.
advantages over others, then it is likely that, over time, costs will consistently come to fall disproportionately upon those with least bargaining power. As the settlement at one point in time provides the baseline for future negotiations, it seems likely that an unequal market will result in the gradual erosion of the few benefits of the least advantaged. In regard to work, this may result in a deflationary pressure upon wages and working benefits such as pensions or healthcare. Alternatively, it may lead to greater demands being placed on workers in terms of the number of working hours expected of them, or the extent to which they are expected to be flexible about their working hours.

Thus, if fair bargaining conditions are not present – and measures such as redistributive transfer payments that may help to deliver them are not practically feasible or politically viable – closer regulation of working conditions and practices will be essential to provide limits to permissible conditions that cannot simply be eroded by market pressure. This might involve setting both minimum and maximum wages, or defining the ratio between the highest and lowest earners permissible within any firm. Regulation may be required to set a limit upon the number of hours a worker may be expected to work, or the conditions under which they can be asked to pursue shift work at inconvenient times. It may focus on the specific terms or benefits that employers must provide to their employees. Given the worries that I have raised in preceding sections about the use of short-term, casual and temporary workers, it may be necessary to have some regulation of the extent to which any firm or employer could rely upon such labour. Provisions that allow for an adequate balance between work and family life might also be required, assuring aid with child care or adequate time off for maternity and paternity leave.

The obvious retort to any argument in favour of tighter labour market regulation is that it will simply inhibit economic activity, resulting in fewer jobs being created overall or in existing jobs being relocated to places with lesser regulatory schemes. Obviously, in a competitive global environment, this is a worry, and one that should properly be considered in the precise design of the practical extent of regulatory frameworks. However, there remains a clear case in favour of regulation in situations where bargaining conditions cannot be guaranteed as fair.
8.5 Market shaping

One final option exists for consideration in situations where regulation may be thought to be impractical or too blunt a tool to achieve desired ends. Instead of attempting to delimit economic activity via regulation, this would instead involve an attempt to shape it via some kind of market intervention that changes the incentive and payoff structure facing different firms. Rawls considers such moves as potentially being justified, at least as short-term possibilities, where necessary for encouraging the development of institutional forms that might contribute to the stable functioning of a fair democratic order.\(^9\) Where the unchecked operation of markets would erode the supporting institutions required for a fair cooperative scheme, then it might be desirable to alter the prevailing market conditions somewhat, so that a more hospitable climate can be created for the preservation of such structures.

For instance, the state may offer some forms of subsidy to firms who meet certain conditions in their employment practices. In order to prevent an overreliance upon temporary or casual labour, firms might be offered credit on highly favourable terms borrowed against the human capital of their workforce, calculated according to factors such as the length of time workers have been employed by a firm or the amount spent on worker training and development. Alternatively, measures might be undertaken so as to alter the balance of exit options within a particular market. Insisting upon a mandatory period of worker training prior to any employee taking up their duties would increase the costs for a company to replace workers, and so may make them focus more intently upon attempts at worker retention.

Two important caveats would need to be attached to any such attempt to intervene in markets. The first is that any measures should be capable of being justified without appeal to comprehensive or perfectionist values. Thus, intervention will be most secure when required by considerations of fairness or values strictly necessary for

\(^9\) “[T]he question arises... whether worker-managed firms have not had a fair chance to establish themselves. If [this] is the case, should such firms be granted subsidies, at least for a time, so they can get going? Would there be advantages from doing this that could be justified in terms of the political values expressed by justice as fairness, or by some other conception of justice for a democratic regime?” Rawls. Justice. p.178.
the maintenance of a stable system of social cooperation. Beyond this, attempts to promote certain values may be open to charges of manipulation. Secondly, it is necessary that any intervention in markets should not itself significantly distort the ongoing operation of markets, introducing perverse incentives or allowing economic actors to escape their responsibilities. Such a critique has, for example, been levelled at the current UK system of tax credits, which have been charged with assisting large businesses by providing them with subsidised cheap labour, when in reality firms should themselves be keen to ensure their workers receive a decent living wage.

It might also be objected that, in advocating measures to intervene in markets so as to change incentive structures, I open myself to a charge of inconsistency; given the arguments I advanced against the use of measures to incentivise individuals in Chapter 6. However, it seems entirely appropriate to distinguish between individual citizens and economic firms and to maintain different rules for different types of actor. Firms may be considered as wholly economic agents in a way that individual citizens cannot. As a result, it does not seem problematic for firms’ actions and attitudes to be predominantly self-serving, and for their duties to be entirely shaped and enforced through legal regulation. For individual citizens, meanwhile, social life is dependent upon the fact that behaviour, inclinations and attitudes are not simply guided by selfish motives, and much necessary behaviour is such that it cannot be assured by legal regulation. As a result, I believe there is no inconsistency between advocating the incentivisation of certain types of behaviour by economic firms, while remaining largely resistant to this as a general approach to the action of individual citizens.

8.6 Conclusion

In this chapter, I suggested a range of measures that might be employed in order to realise the aims spelled out within the rest of the thesis. These measures comprise both long-term ideal measures that may not be immediately feasible or politically viable, and shorter-term nonideal measures that may assist in ensuring a measure of fairness in productive endeavour, even against unjust societal background conditions.
Conclusion

One dilemma that emerges when trying to evaluate markets is whether to ascribe observed failings to circumstantial particularities or to inherent features of their working. On the occasions that markets fail, their defenders are keen to cast the blame upon practical obstacles, such as regulation, that impede the working of an abstract model. Meanwhile, opponents blind themselves to any beneficial effect of market operation, to instead focus on their destabilising and iniquitous consequences. One component message of this thesis is that, if we are to get the real measure of markets, this sort of essentialist position should be refused: markets can be beneficial, they can be harmful. The precise effect they have is hard to deduce in general, but instead requires patient enquiry into the circumstances of specific markets.

But, the above argument is not to endorse a perspective that says no worthwhile answers can be obtained from theorising at a general level. Abstract theory is an important means to consider basic principles of social organisation, and does provide useful guidance for efforts to design and reshape the key institutions of social life. Thus, arguments that seek to reject the entire method of abstract theorising ought to be rejected. Yet, what abstract theory does not, and indeed is ill-suited to, do is provide a clear, decisive and detailed programme of immediately applicable reform. Theorists must, then, be attentive to the distance that exists between abstract models and practical circumstances, and must also be prepared to undertake additional efforts to translate general principles into appropriate and feasible proposals. Charges against theorising in the ideal only become problematic if that ideal comes to be regarded as providing an accurate description of reality.

This thesis has provided an example of how this sort of translation might be conducted. It is necessary to consider the logic behind particular arrangements and practices, in order to understand why people have reason to subscribe to them and to assess what might be of value within them. It also requires an attentiveness to the threats that may be carried within particular practices and the manner in which behaviour and attitudes may be shaped or restricted by the ongoing operation of
particular social dynamics. Developing this sort of understanding of particular practices and institutions allows for the development of reforming ideas that will be feasible, as they attempt to protect what is of value within current systems while also trying to achieve the additional value contained within a normative ideal.

In specific relation to employment, I have argued that there are good reasons, from both a practical and a normative perspective for maintaining a system that makes use of market-based forms of organisation. Markets help to produce material gain and innovation that may improve the conditions of all members of society, while protecting the conditions that allow for individual agents to make effective choices about their own life and pursuits. However, they may condition both employment relationships in unacceptably inegalitarian ways and may, in turn, undermine the ongoing stability of social cooperation. Understanding the structural forms that allow these negative aspects to develop provides the best basis for assessing how specific reforms may best be targeted.

In substantive terms, I suggested that systems based on purely economic motivations may be corrosive of the attitudinal basis for fair cooperation. I also argued that changing patterns within employment, with moves towards greater flexibility in working terms and conditions, pose new normative challenges that may not be easily captured by a focus simply on the structure and organisation of workplaces. Instead, we must understand that the greater exposure to markets that comes as part of the drive towards flexibility provides a direct threat to the least well-off, as it exposes their lack of an effective bargaining position, in turn undermining their chances of achieving any degree of economic security. I have proposed that a direct focus upon the respective bargaining positions of parties within employment markets – and, in some cases, efforts to intervene – is necessary in order to ensure that markets do not simply underscore massive and damaging inequalities in status.

These suggestions, of course, do not undermine the validity of theoretical ideals for institutional schemes, such as Rawls’ account of a well-ordered society based on justice as fairness. But, while general society-wide solutions to the normative shortfalls of employment markets are certainly possible, there may be many occasions where this sort of reform is not immediately feasible. In such situations, the considerations
developed within this thesis help to identify how more local judgements might be made and the directions in which reform should be aimed. This attentiveness to the messier business of practical judgement and piecemeal reform should be taken neither as a surrender of the larger aim to make a better world, nor as a competitive challenge to ideal methods. Efforts like this within nonideal theory are, instead, entirely complementary to the work of ideal theory.
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