

Liberalism and Equality

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{Final version published in Steven Wall. ed., Cambridge Companion to Liberalism, Cambridge, 2015}

“Liberalism is the conjunction of two ideals,” Thomas Nagel once wrote.¹ The two he had in mind were roughly an ideal of free speech and individual liberty and an ideal of a democratic society controlled by its members, in which inequalities of wealth and privilege are not excessive. It is hard to know how to individuate and count ideals; perhaps Nagel’s characterization already collects several. One might see liberalism as a jumble of disparate ideals, loosely held together, or alternatively as a bundle of ideals and values unified in one coherent doctrine. On either characterization, liberalism combines several distinct norms, and the perennial question is, how to find a proper balance among them. Of course, nowadays and in the past, people use the term “liberal” with different meanings, sometimes with honorific connotation, sometimes pejorative. So focusing energy on the question, “What’s a liberal?” can seem a fool’s errand.

In this chapter I simply stipulate that liberal political doctrines are those that affirm that people have moral rights to core individual freedoms including freedom of thought, expression, and culture, freedom of organization and assembly and public protest, the rule of law including the right to a fair trial, wide individual liberty to live as one chooses provided one does not harm others, and rights of private ownership of resources, freedom of contract and market trading, and careers open to talents on a nondiscriminatory basis. These rights to freedom are assigned high priority and not easily overridden. All normally competent adult members of society equally possess these rights to basic freedoms. All of us have a duty to respect and, up to some point, to promote these individual rights, both when acting as individuals and when acting on others through the state.

An important division in liberalism centers on whether one regards these core rights and duties as matters of deontological rule that figure in the formulation of fundamental moral principles or whether instead they are seen as means to the further moral goals of promoting individual human flourishing, people leading good lives with good fairly distributed. In the tradition of John Locke and Immanuel Kant the liberal freedoms state basic moral requirements; in the tradition of John Stuart Mill they are means, and the reasons for embracing them are a matter of empirical lore not basic moral principle. The position you take as to how the various components of the basic liberties should be weighed and balanced depends in part on whether you take them to be instrumentally or noninstrumentally morally valuable (or both).

Another important division in liberal thought is between those who affirm and those who deny that what we owe one another includes a strong, expansive, and stringent beneficence requirement. This division tends to coincide with splits between left-wing and right-wing liberals, and overlaps somewhat with the different distinction between egalitarian and nonegalitarian liberalisms that is the subject matter of this chapter.

Everyone equally possesses the core moral rights to individual liberties. On this point there is general agreement. Does the best, most compelling and appealing version of liberal doctrine encompass requirements of equality of other sorts? If so, which equalities matter? On these questions, opinions diverge widely. Below I list and

characterize some types of equality that some versions of liberalism embrace. In the rest of the chapter I look at what might be said for and against egalitarian liberalisms.

1. Some embrace democratic political equality: each person has a right to an equal vote in majority-rule elections that select (a) top political officials who administer the laws and public policies and (b) the legislators who will (perhaps in conjunction with some top elected administrators) determine the content of public policies and laws.

2. Some embrace (usually in addition to 1) the idea that to some degree there should be equality of rank, power, and status among members of society and that in these ways members of society should relate as equals.

3. Some embrace the idea that to render the core freedoms substantive and not merely formal, society should be arranged so that all have adequate material means and developed skills so as to be able to make effective use of these freedoms. All should have substantive or real freedom, where one has the real freedom to go to Paris just in case there is some course of action one can choose and execute such that if one chooses and executes this course of action one gets to Paris and if one does not choose and execute it, one does not get to Paris. Having “adequate” material means and skills might be interpreted as having them at a good enough threshold level or as having them at an overall equal or close to equal level.

4. Some embrace, beyond equality of opportunity as nondiscrimination and careers open to talents, a norm of substantive equality of opportunity. In a weak form this requires that all have some opportunity to become qualified in the ways that render one successful in competitions for positions of special advantage such as student slots in colleges and universities, access to business loans for entrepreneurial purposes, and desirable posts in business firms and public agencies. In a strong form this requires that all individuals with the same native talent and the same ambition to succeed should have the same chances of competitive success (independently of their social class, sex and sexual orientation, ethnicity and supposed race, and so on).

5. Some embrace an egalitarian or prioritarian beneficence norm that requires that actions be taken and institutions and practices arranged to help those who would otherwise be worse off than others in well-being prospects. Such a norm might demand flat equality of condition (or priority-weighted maximization of condition) or instead equality of opportunity for well-being (or priority-weighted maximization of such opportunity). The measure of people’s condition for an equality norm might be resource holdings or some other alternative, rather than well-being.

These various ways in which core liberalism might be enriched—or corrupted, depending on your point of view—by egalitarian infusions are overshadowed by two possible extensions of the scope of application of the doctrine. The two extensions are across space and across time. Liberalism in normative political theory is a doctrine developed in the context of reflection and deliberation about suitable political arrangements and basic institutions for a single sovereign nation. Questions about secession and immigration reveal that taking a unified nation state as the unit of analysis takes a lot for granted. But anyway the ideas that people have basic rights to liberty that others should respect and needs that should prompt concern in others do not seem to encounter any natural barriers to their extended application. The rights do not stop at any borders.

This point is already explicit in John Locke's *Second Treatise of Government*, standardly regarded as a canonical text in the liberal tradition. The natural moral law that regulates our dealings with one another binds us regardless of positive law or convention.² But his emphasis is on limited government and on the conditions that must hold if consent to government is to make sense.

On the face of it, the rights and responsibilities and entitlements that liberalism posits hold without spatial limit, for practical purposes across the entire globe, and without temporal limit, giving us duties to future generations. But once you actually try to extend the principles in these natural ways, their character is significantly altered, in ways that we are just beginning to acknowledge and understand. Although liberalism is transformed when it becomes a doctrine of global and intergenerational and intergenerational justice, and surely should be so transformed, this chapter remains focused on to the case of a single nation state in isolation.

The question arises, on what basis do we regard all persons as possessing a fundamental equal status and deserving some form of equal concern? If we say, we are all human, the claim looks narrowly chauvinistic. If we say, any being that possesses (enough) rational agency capacities is a person, and on this basis qualifies for a fundamental equal status, it is not clear why differences among persons along the various dimensions of rational agency capacity above whatever threshold is deemed to mark the personhood level do not render persons fundamentally unequal in status and deserving of unequal concern. This is an important and unsettled question, but not one this chapter considers.

Autonomy.

To make effective use of the freedoms and opportunities a liberal society provides, individuals must be educated and socialized so that they have capacities to choose well and to be resolute in carrying out chosen plans and must also be disposed to exercise these capacities. To fulfill the responsibilities of democratic citizenship, individuals need civic virtues including abilities to understand public affairs and the disposition to pay attention to them. In a word, individuals need to become autonomous.³ These are platitudes, but the policies they demand are controversial.

An aspect of egalitarianism appears on this scene if one affirms that society is obligated to bring it about, so far as is practically possible, that each individual becomes autonomous or self-governing at least at a threshold level. On that view, we owe everyone equally a good enough level of autonomy. That view is controversial. Liberals in the libertarian camp (both left libertarians and right libertarians) can accept that parents, who choose to act in ways that may foreseeably bring a child into existence, have duties to raise the child properly, but tend to deny that the rest of us have any back-up or complementary childrearing duties. This is an important instance of the division in liberalism between those who accept and those who deny that beneficence duties are central parts of the enforceable core of morality not merely supererogatory optional frills.

The moral requirement to protect and promote each individual's autonomy has implications for childrearing. The duty to raise children so that they become autonomous applies first to parents or recognized guardians of the child. For those who accept a general beneficence requirement to ensure that all children are properly raised, society at large has a duty to help with childrearing and, as part of that duty, to promote children's autonomy. A plausible empirical surmise is that the duty requires training

children in critical reasoning skills and encouraging them to think for themselves and acquainting them with the wide variety of values and principles and doctrines that have been foundational for different people's choices and ways of life. Arguably training for autonomy also involves inculcating in children some particular plausible set of values as well as the disposition to scrutinize it and to revise it as seems fit. Some see here a potential conflict between the duty to train for autonomy and the claimed right of any competent parents to raise their children as they choose within broad limits, this right being understood to encompass a right to do whatever they deem necessary to ensure that children internalize and follow the parents' ethical outlook. This conflict pretty much disappears if the right to indoctrinate one's children in one's own cherished values is strictly subordinate to the prior right of the child to become an autonomous individual. The parents and society (all of us regarded collectively) both have the duty to foster autonomy in the child and the duty of society becomes stringent if the parent lacks the will, the competence, or the resources to do this effectively.

The duty to promote autonomy is a close companion of the duty to secure the child's right to an open future.⁴ I could be disposed and able to choose well, but lack the skills to prosper in any but a very narrow range of life choices. The right to an open future is the right to be trained in general-purpose skills so that a fair share of the options that are open for choice in the society one inhabits are within one's reach and grasp. Here the right to an open future in its egalitarian guise—everyone equally has a right to a good enough set of opportunities, or to a set of opportunities equally as good as anyone else's—blends into substantive equality of opportunity norms.

Equality as no-mastery.

John Locke vigorously affirms a conception of equality in chapter 2 of his *Second Treatise of Government*: "To understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a *state of perfect freedom* to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending on the will of any other man." He immediately adds that this is "*A state also of equality*, wherein all the power and jurisdiction is reciprocal; there being nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection . . ."⁵ Call this conception *equality as equal no-mastery*. No person is initially subject to the authority of any other person, and none is required to obey the commands of any other person. Each is perfectly free to live as she chooses and act as she chooses within the limits of the moral law.

Locke's ideas stated here cast a long shadow on subsequent liberal thought. Switching the metaphor, I note also that the tensions between the different thoughts banded together in this short passage reverberate throughout the rest of Locke's own *Second Treatise* and beyond.

One thought is the rejection of natural aristocracy and natural privilege. The justification of political authority, whatever it might turn out to be, cannot amount to telling the peasants, the order of society works out well for the nobles and the high-born, and it is morally appropriate that you low-born types labor for their benefit. The justification of imposing a social order and a set of social duties on people has to appeal to principles that give equal consideration to the interests of all affected people,

regardless of their rank, social position, class status, or initial place in any social hierarchy. Social arrangements must be justifiable to all in terms of fair and impartial moral principles.

A different thought is that so long as you act in ways that do not violate the natural moral rights of others, no others have the right to coerce you to induce you to behave as they wish, unless you agree by your free voluntary choice to be subject to the will of specific others.⁶

The two thoughts are potentially in tension. If all persons were fully rational and moral, then they would only voluntarily agree to social arrangements that include a government that promotes the common good and that respects and protects everyone's fundamental moral rights, if these are the arrangements that would be singled out by moral principles that are justifiable to all in terms of fair and impartial moral principles. But suppose, as is surely the case, that we are not all fully rational and moral and that individuals differ widely in the degree to which they are fully rational and moral. Then some of us by free and voluntary choice may subject ourselves to a government that does not promote the common good and respect and protect human rights. It might well be that under a wide range of circumstances some of us would not freely and voluntarily agree to the authority of a government that would be well functioning in moral terms.

Locke himself fails to acknowledge the tension and clearly give priority to one or another element in equal no-mastery. He emphatically asserts that no one is bound to obey government decrees except by his free and voluntary consent.⁷ But he develops a notion of tacit consent according to which it seems that simply being the recipient of benefits that a tolerably just government supplies can generate obligations to conform to the laws the government enacts independently of any action or choice that amounts to voluntary acceptance of benefits. This formulation read literally seems to withdraw the free and voluntary consent requirement for political obligation and to anticipate principles of fair play and effective rights protection as possible grounding for political obligation.

Equality and "political liberalism."

The Lockean norm of equal no-mastery can be interpreted in still another way that yields a distinct and different liberal ideal of equality. The idea here is that we are all free and equal in the sense that no one has the right to impose her own interpretation of moral requirements on others who disagree.⁸ When people disagree, insisting that "this is what morality demands" and forcing compliance with that is simply self-aggrandizement or rule by the stronger.

Pushed too far, this idea is ludicrous. It is surely not wrong to force me to desist from killing innocent people even though my conscience tells me that God demands human sacrifice. The ideal then is transmuted into the claim that people should not be forced to conform to moral rules that can only be justified by appeal to principles that some people can reasonably reject.

Applied to the state, this ideal becomes a norm of liberal legitimacy: It is morally illegitimate to wield state power in ways that can only be justified, if at all, by appeal to principles that some people subject to this coercion can reasonably reject.⁹

There is an ambiguity in the liberal legitimacy norm as just stated. On one interpretation, it states that some moral disagreement is not rationally resolvable, and that at the end of the day, after the most ideal and protracted scrutiny and deliberation, fully

reasonable people will disagree about the correctness of some candidate moral principles, and no principle that cannot attract unanimous acceptance among fully reasonable people is a proper basis of state policy. To this, one might wonder how fully reasonable people could disagree in perpetuity, rather than recognize that none of the views under dispute can be known to be uniquely correct. Further, if this is so, why not say that organizing society on the basis of any set of principles that does no worse than any other candidate set at attracting the assent of the fully reasonable is morally permissible?

On a second interpretation, the liberal legitimacy norm says that if people's ethical views are reasonable enough, even if not fully reasonable (that is, would not survive full rational scrutiny), it would be illegitimate, hence wrong, to use state power to force them to conform to rules against their conscientious beliefs. Again, an ambiguity surfaces. "Reasonable enough" can mean "close in content to what is really reasonable." But if my incorrect views are close in substance to what is being enforced, why think there is anything seriously problematic about forcing me to conform? "Reasonable enough" can mean "reasonable enough in the process of one's practical reasoning." But if my reasoning is moderately good (though imperfect) but leads me to embrace (say) racist views that are egregiously wrong, again, it is not clear at all that there is anything even slightly morally wrong with coercing me to conform to the nonracist better views.

A third interpretation of reasonable rejectability avoids this last implication.¹⁰ On this interpretation, reasonable rejectability is a mixed idea that combines insistence on a moral minimum and an epistemic norm: views that are egregiously, flagrantly wrong, morally beyond the pale, cannot be the basis for a reasonable rejectability claim, and in addition views that are reached by evidence-gathering and argument-assessing practices that do not meet a threshold standard of epistemic acceptability cannot be the basis of a reasonable rejectability claim. So perhaps racist views no matter how reasonable the epistemic process of their formation cannot be the basis of a reasonable rejectability claim. —This third interpretation invites the objection that views that are morally wrong but just short of qualifying as egregiously wrong, and epistemic processes that are inadequate, but not so bad as to fail to meet the good enough standard, can form the basis of a proper reasonable rejectability claim, but using state power to enforce correct moral norms that are reasonably rejectable in this sense can still be morally acceptable.

Equal democratic rights.

Liberals, by and large, are democrats. They favor a democratic state, in which top public officials and the legislators who (by majority vote) enact laws are selected by majority rule, with each adult citizen having an equal vote, and in elections conducted against a background of secure freedom of speech and assembly and freedom of political organization. There are many varieties of democratic political constitution. A political society can be more or less democratic, depending on the degree to which the features mentioned in this characterization are present. A society might be regarded as more or less democratic, depending on the degree to which one or more further conditions are satisfied: (1) Equal influence: All citizens with the same political talent and skill and the same ambition to influence political outcome have the same chances of influencing political outcomes. (2) Wide scope: No issues are kept separate from control by elected legislators and top elected public officials and decided by some nondemocratic process. (3) Deliberative politics: political arrangements and public culture render it the case that significant political decisions are made only after extensive and wide-ranging political

discussion in which all citizens are participants. (4) No time gap. When majority rule in the relevant jurisdiction shifts concerning some substantive issue or on the question whether an elected official or legislator should remain in office, public policies and laws immediately shift and unwanted officials and legislators are immediately replaced. Bringing about greater fulfillment of one of these democratic desiderata can require lesser fulfillment of others.

What justifies democracy? One view is that when conscientious citizens who are morally decent disagree about what public policies should be enacted and what candidate individual right should be politically enforced, the only fair way to proceed is to have a discussion and then take a vote, with all having an equal vote and majority rule settling the issues under review.¹¹ On this view, democracy gives each person living in a political community an equal say in political power, and giving some an unequal say would be intrinsically unfair.

This defense of the right to an equal say invites two criticisms. One is that if democracy is justified for an ideal community of conscientious voters, the justification does not smoothly carry over to actual circumstances in which members of society are not ideally conscientious, and majority rule can enact violations of people's moral rights. A second criticism is that even if voters are conscientious and try to vote for the common good, they may well fail to discern it, due to failure of moral insight, ignorance of relevant empirical facts, or inability sensibly to incorporate the factual knowledge one has into the determination of appropriate public policies and laws. So perhaps political power rightly belongs to conscientious moral and political experts, those who are most knowledgeable about the matters that bear on correct policy choice and disposed to use their knowledge to advance the common good.

An instrumentalist justification of democracy holds (1) that political arrangements should be set so that over time the consequences of their operation are morally better than the consequences that would be brought about by installing and maintaining any alternative political arrangements and (2) the consequences of installing and maintaining political democracy would be morally better than those that would result from the operation of any alternative regime. Claim 2 can be supported by showing that democracy tends to select better policies than alternative regimes, that installing democracy has other morally desirable effects such as improving the democratic citizens or by fostering wide social solidarity and diminishing people's sense of alienation for government authority, or by noting the difficulties of constructing elite rule mechanisms that do not in practice draw incompetent or immoral agents into elite rule roles.¹² An instrumentalist justification of democracy offers a method for deciding to what degree a political society in given circumstances ought to be democratic along various dimensions: put in place and sustain the version of democracy whose consequences will be best.

Hybrid views are possible. David Estlund argues that of the political systems that would not be morally illegitimate in virtue of being reasonably rejectable, democracy has epistemic virtues, and is likely to lead to selection of better laws and public policies, and is justifiable on that basis.¹³ He argues against rule by moral experts on the ground that any specification of a procedure to implement this idea would be reasonably rejectable on the ground that it might conceivably operate in a way that was biased against the interest of some citizens. This defense of political democracy by appeal to the political liberalism

legitimacy norm may be vulnerable to the criticisms of political liberalism already mentioned in this chapter under that heading.

A commitment to democracy can form the basis of a wider egalitarian ideal. The idea here is roughly that people ought to be treated as equals by giving each a democratic say in political decision making and by establishing and sustaining social and political arrangements that enable all members of society to relate as equals, on the footing of equal social status. In recent political thought this democratic equality ideal can be traced back to writing by Michael Walzer and more recently has been developed and defended by Elizabeth Anderson and by Samuel Scheffler.¹⁴ Advocacy of equality of democratic status is, like any advocacy of equality for its own sake, subject to the leveling down objection, to be described below.¹⁵

Equality of condition.

Throughout its history, for better or worse, liberalism in its many ramifications and variations lacks a firm commitment to equality of condition. This is the idea that all persons deserve equal well-being or equal material resources (or equality according to some other measure of one's condition) and that social arrangements should promote and sustain this equality across persons. Put another way, the egalitarian ideal is that inequalities in people's condition should not be excessive, and that beyond the acceptable range, the greater the gap between the haves and the have-nots, the morally worse the situation is. A comment by George Orwell expresses the egalitarian conviction: "A fat man eating quails while children are begging for bread is a disgusting sight."¹⁶

The affirmation of the moral imperative of equality of condition is historically associated with left-wing criticisms of liberalism and capitalism. In the nineteenth century, the radical Karl Marx is an egalitarian and the liberal J. S. Mill is not.¹⁷ The same dialectic resounds in recent political philosophy. Thus G. A. Cohen faults the liberal political theorists John Rawls and Ronald Dworkin for embracing doctrines according to which a just society is fully compatible with the institutions of capitalism.¹⁸ If the economic domain is organized around private ownership of resources and the free market, differences in people's initial wealth endowments, abilities, and luck in their circumstances and in the outcomes of their choices are bound to militate against equality of condition. Cohen upholds the intrinsic moral desirability of equality of condition and denies that a society that tolerates significant inequality of condition can be fully just. It should be noted that although Cohen denies capitalism can be fully just, he does not rule out the possibility that in the actual circumstances we face, some form of capitalist institutions might deliver more justice than any feasible alternatives.

The picture just sketched is somewhat cartoonish and over-simplified but roughly correct. Qualifications need to be made and important details added.

For starters, inequality of condition might arise from an initially equal (or fair) distribution followed by people choosing to use their resources in ways that would not seem to trigger any social justice demand for redistribution to restore equality or condition. Perhaps some are prudent ants who labor and save and some are imprudent grasshoppers who frolic and spend, as in Aesop's fable. Perhaps all engage reasonably in high stakes gambling activity in which some win, some lose. Perhaps some reasonably pursue lucrative activities such as banking and lawyering and others reasonably pursue nonlucrative activities such as poetry and teaching. Suppose the result of these diverse choices is that both groups end up with lives they want, but with unequal bank account

balances. In none of these examples, including others that might be adduced, does the demand for equality of condition that would undo the predictable results of these different choices as they play out in a fair framework for interaction much resemble a plausible demand for justice.

In response, the left-wing criticism of liberalism can be reformulated or perhaps just rephrased. The revised critics of liberalism hold that it is morally bad—unjust and unfair—if some are worse off than others through no choice or fault of their own. Justice requires equality of condition except in so far as inequality of condition obtains and those who are worse off than others are reasonably held responsible for their choices and for their overlooking of available choices that led to their being worse off. Here one is responsible for one's choice just in case any shortfall in one's condition that results from the choice does not trigger any obligation on the part of others to undo the shortfall. This position, known as luck egalitarianism, can be fitted out with various bells and whistles that introduce modulations in the ideal of personal responsibility that is attached to equality of condition.

The revised egalitarian—now luck egalitarian—critique of liberalism may have become more plausible in the character of the ideal that it upholds, but it now becomes an open question whether liberalism can accommodate the left-wing critique simply by accepting the revised ideal.¹⁹ Maybe some version of luck egalitarianism should be added to the set of ideals and norms, the proper balancing among which determines the ideal shape of liberal principles.

Take the vexed and still poorly understood relationship between liberalism and the endorsement of capitalist institutions including robust private ownership of resources and the organization of economic life by voluntary, mutually beneficial agreements among private owners. Maybe some version of liberalism that takes luck egalitarianism on board will endorse a social democratic organization of society, in which a market economy based on private ownership delivers outcomes that are continually adjusted by tax and transfer policies that take resources from the more fortunate members of society for the benefit of the less fortunate. Maybe the residual inequalities of condition in such a system are ones that should elicit our acceptance not our resentment or indignation.

Real Freedom.

Another wrinkle in the picture comes into view when we ask what sort of freedom the liberal should anyway be upholding. Recall the Anatole France quip to the effect that the law in its majesty equally forbids rich people and tramps to sleep under bridges. A law that is formally impartial may bear down with cruel force on some people and not others depending on their circumstances. In other words, the equal freedoms and civil liberties that are at the core of the liberal ideal might turn out to be merely formal and not substantive. So let us distinguish formal and real (or effective) freedom. One is formally free to perform a given act just in case no applicable law forbids doing it and no one would interfere (in certain ways that count as wrongful) if one were to try to perform the act in question. One is really free to perform a given act just in case, if one chooses to do it, there is some available course of action one can choose and execute that will result in one's successful performance of the act.²⁰

Simply marking this distinction is not to dismiss formal freedom as unimportant. It would be oppressive for state officials to forbid us from going on a pilgrimage to Lourdes from misplaced concern for our souls or from climbing Mount McKinley from

hatred of outdoor activities even if we lack the money for passage to Lourdes or the ability to attain the McKinley summit. But real freedom also matters.

Among recent political theorists, John Rawls and Amartya Sen have perhaps done the most to show how a concern for real freedom might help us improve our understanding of social justice as interpreted within a framework of liberal ideas.²¹ Rawls has a broader and a narrower proposal. The broader proposal appears in the course of his elaboration of the idea of a political conception of justice that can gain the acceptance of all reasonable people even though they disagree with each other in their ultimate moral values and their ideals of human good. His surmise is that justice demands that citizens regard one another as free and equal, that civil liberties and democratic rights be affirmed, and that institutions and practices are arranged so that all are enabled to gain access to sufficient material resources so that they can effectively make use of their liberties and freedoms. This formulation points toward the idea that justice demands that all have access to resources that enable them to have “enough” real freedom. This raises the question, how much is enough? Rawls’s narrower and more specific proposal is known as the *difference* principle. This holds that provided that basic freedoms are protected and provided that substantive equality of opportunity obtains (on which, see below), institutions should be set to make the worst off social group as well off as possible, in terms of primary social goods. These are multi-purpose resources, which any rational person will want. They include wealth and income, freedoms and opportunities. Rawls also affirms an alternate formulation of his principle of justice in distribution. This says that inequalities in primary social goods are unacceptable unless they are to the maximal advantage of the worst off social group.

Sen criticizes the primary goods idea on the ground that people differ in native abilities, and more broadly in capacities that enable them to transform resources, in given circumstances, into achievements and enjoyments that they have reason to value.²² For a simple example, suppose that two persons are similar in aims and traits except that one lacks function legs and the other has normal legs. With the same allotment of primary social goods, one must spend her resources on wheelchairs or other mobility devices, the other will get this for free and be able to attain greater fulfillment of her aims. The example generalizes, because people’s traits vary along many dimensions in ways that matter. Justice requires taking account not only of the piles of resources people get but also what each will be enabled to do with the resources she gets. In other words, primary goods are not the right measure of someone’s condition for distributive justice purposes. Sen urges that we should measure people’s condition in terms of their capacities to achieve functionings (ways of being and doing) they have reason to value.

The capability approach to social justice that Sen presents is further developed in writings by Martha Nussbaum.²³

Equality: desirable for its own sake or intrinsically? Replaceable by priority?

The debate between the primary goods advocate and his critics is about how to assess people’s condition for purposes of determining what we owe to them by way of egalitarian justice requirements. Any answer to this question of measurement can be paired with various answers to the question, what principle specifies just treatment of people according to this measure. A straightforwardly egalitarian principle holds that everyone should have the same, or equal opportunity for the same. Another candidate

answer within the broadly egalitarian family is sufficiency: everyone should have enough, or have access to enough.

The proposal that equality is per se morally desirable, even as one value among others, is subject to the leveling down objection.²⁴ If equality is valuable, then achieving equality by making better off people worse off without making worse off people in any way better off would be in one way morally valuable, even if not acceptable all things considered. The objection is that leveling down is in no respect desirable, so equality cannot be per se valuable.

A perhaps apocryphal story is told of an egalitarian activist, call him Fred, in an Israeli kibbutz during the early days of the Israeli state in Palestine. The kibbutz members live communally and are committed to equality of condition. Late one night a chink-chink-chink sound is heard in the communal kitchen. Upon investigation it turns out that what people are hearing is Fred systematically knocking the handles off the unchipped cups in the communal kitchen. He had noticed some cups had lost their handles, inducing an inequality, and he was acting to restore equality of condition. This is the leveling down spirit.

If equality of condition is not per se morally valuable, then neither is luck egalitarianism—equality of condition modified by some doctrine of personal responsibility—per se morally valuable. The leveling down objection at this point appears to leave the left-wing critique of liberalism in a shambles.

These appearances may be deceiving. Left-wing criticisms of liberal institutions and the behaviors of individuals in liberal societies do not tend unequivocally to insist on equality of condition as noninstrumentally morally valuable. When Orwell finds it repulsive that people are sitting in restaurants eating fancy food while people elsewhere are living in horribly grim conditions, he is surely envisaging that there are alternative social arrangements in which the well off people share resources with the badly off and the condition of the badly off dramatically improves. Also, a slightly subtler point, surely Orwell is also supposing that there is some rearrangement that would improve the condition of the worse off that would be stable through time. He is not recommending redistribution with the expectation that the worse off will enjoy a temporary rise in well-being at the expense of the rich at the cost of permanently lowering everyone's standard of living in the long run. In the simplest case, Orwell is surely not saying that if the quails you are eating right now would rot if it were attempted to transfer them to the starving children, you should still cease eating them right now and throw them in the garbage.

It is possible to hold onto an ideal of equality of condition while insisting that equality should not be pursued when doing so conflicts with the Pareto norm, such conflict being the objectionable feature of leveling down. But if one countenances interpersonal comparisons of advantage, equality still shares an objectionable feature of sufficiency. Neither gives moral weight to advantages gained for better off persons, or for those who are already assured of remaining above the threshold of sufficiency. Achieving a tiny amount of gain for one worse off or below threshold person does not plausibly have strict lexical priority over achieving any amount of gain however large for any number of persons however large who are already better off or above the sufficiency threshold. Accepting this point naturally suggests accepting a prioritarian morality,

which holds that it is morally more valuable to achieve a small same-sized benefit for a person, the worse off the person would otherwise be over the course of her life.

At this point the left-wing critique of liberalism is reconfigured. There are two left-wing versus right-wing continua. On one scale we register the degree to which beneficence, the norm that urges us to help people lead better lives even though we have neither harmed them nor stand in social relations with them, is morally required, with right-wingers denying that any degree of impartial beneficence is ever morally required. On another scale we register the degree to which attaining a benefit for someone is more valuable, the worse off the person would otherwise be. Right-wingers give little or no priority to aiding the worse off.

These considerations cross-cut the personal responsibility component of luck egalitarianism. To see the point, consider how a moral case for aiding someone based on beneficence and priority considerations might be amplified or dampened by the individual's moral responsibility for her present plight. To illustrate, suppose one is morally responsible for actions that result in one's present condition, the more one is morally blameworthy or praiseworthy for those actions, depending on their quality. An unforgiving stance on moral responsibility holds that being morally responsible for one's present bad plight renders one ineligible for aid come what may. A stern stance on moral responsibility holds that if one's behavior is faulty, and one could have behaved well, one's moral responsibility is not diminished by the degree to which it would have been difficult or painful to do the right thing. A stance on moral responsibility for purposes of deciding what we owe to one another can be variously unforgiving and stern.

I have suggested that equality is valuable neither intrinsically nor for its own sake. At most it is valuable as a means. The dispute between egalitarians and nonegalitarians does not disappear, but is better construed as differential embrace of (1) beneficence obligations, (2) a prioritarian understanding of beneficence,²⁵ and (3) a soft conception of personal responsibility. In this way the egalitarian critique of liberalism becomes assimilated to liberalism as one of its branches.

In passing, notice that intramural disputes among liberals regarding the strength and character of sensible egalitarian commitment are likely overshadowed by disputes concerning the morally mandatory scope of social justice principles. Do liberal principles of justice apply globally across national borders and across time to encompass the interests of distant future generations? Many liberal philosophical arguments work to confine the writ of social justice to each separate political society considered in isolation. Cosmopolitans oppose this truncation of liberal morality.

Equality of opportunity, formal and substantive.

Liberals standardly are portrayed as rejecting equality of condition. This chapter supports that portrayal. They are also standardly portrayed as embracing equality of opportunity. This bears examination.

Liberalism tends to hold that one should be free to do whatever she likes with whatever she legitimately owns so long as she does not thereby wrongfully harm others. But in entering into interactions with others in the economic marketplace, duties of nondiscrimination apply. If I am selling skis, it is wrong for me to sell to men but refuse to see to would-be women customers, and wrong to insist on hiring white heterosexual males regardless of the qualifications of others who would apply for the job in my firm I am trying to fill if I would let them do that. The equal opportunity norm of *careers open*

to talents requires that in seeking applicants for desirable job openings in public and private firms, bank loans to be used for business or investment purposes, and student slots in higher education institutions, applications should be open to all and judged on their merits, and selection made on the basis of merit (roughly, the question to be asked is, selecting which candidate would do most toward advancing the morally innocent aims of the enterprise?). This nondiscrimination norm is an element of a fair framework for cooperative interaction among individuals.

Careers open to talents could be fully fulfilled in a society in which none but children of the wealthy or of an hereditary aristocratic class ever become qualified, because only their parents can afford the costs of education to gain qualifications. If lower class parents lack the competences needed to pass along technical qualifications to their children, again, careers open to talents could be fulfilled even though members of large social groups have no chance to succeed in social competitions and never do succeed.

A large issue is raised here. Consider the issue as it arises within a single society. When parents bring it about that a child is born, clearly parents (or substitute guardians appointed by mutual agreement with parents) have special duties to nurture the child and help it gain good life prospects. What do the rest of us owe the child, or those playing the parent role, in this process? Public education financed by general tax revenues represents a moral judgment that all of us together have duties to see to it that each and every child has some substantial opportunity to develop her native talents and become qualified for success in later social competition. Head Start programs and child care programs for poor working parents reflect the same concern. There is little consensus in modern societies as to what the exact shape and strength of the duty to help parents and children is.

Rawls, innovative on this issue as on many social justice issues, proposes a strongly egalitarian principle of substantive equality of opportunity, called *Fair Equality of Opportunity* (FEO). This principle requires that provided basic civil liberties are respected, as a first priority, justice requires that institutions and practices be set so that all persons with the same native talent potential (genetic endowment) and the same ambition (aspiration to succeed in competition and willingness to work to succeed) should have identical chances of competitive success (in contests and other interactions regulated by careers open to talents). This principle in a sense legislates a classless society—at least, one in which social privilege and advantage are not passed along from parents to children. One might suppose the implementation of this principle is limited by a morally required respect for the freedom of parents to give their own children a leg up in social competition by lavishing special nurturance and training on them, but in principle, whatever well resourced parents do to help their children could be entirely offset by philanthropic and public policy programs that provide exactly offsetting advantages to children of parents who are not well resourced. So in theory fulfillment of FEO could coexist with wide and deep parental partiality expressed in acts of favoring their own children (all such acts being counterbalanced by acts of others).

FEO is clearly controversial. But there are objections to it that do not consist merely of footdragging recalcitrance to help our neighbors and our neighbors' kids.

First, FEO is a principle that mandates a type of equality, so it is vulnerable to the generic criticism of equality already canvassed. Why insist on equality of opportunity if

the alternative is inequality favoring better off children but in ways that also promote the real freedom advantages of the worse off children who are getting the short end of the stick? Suppose we amend FEO so that it does not require movement to suboptimal outcomes and violation of Pareto. But FEO constrained by Pareto is also suspect.

Second, consider FEO from the standpoint of people who have low abilities and are not going to benefit from extra social resources expended to help their abilities to blossom. Suppose that instead of expending social resources to fulfill FEO, ensuring that talented persons of lower-class, middle class, upper-class, and upper-upper class backgrounds end up with identical competitive prospects, we could instead expend extra social resources to help low-ability people become more qualified for decent jobs, and to structure the work environment so that more decent jobs are available to them. Such expenditures would be in violation of FEO, but would help the worse off, and perhaps the worse off among the worse off members of society, to thrive. I'm all for such expenditures.

Third, notice that the broad issue with which we began discussion in this section was what do the rest of us owe to parents and their children by way of helping with childraising. Even if FEO were adequate as a principle to guide just preparation of individuals for success in social competition (I have claimed it is not), it would not be a complete guide to just public policy regarding education and socialization.

This issue has to be central for any normative political theory, liberal or not. The liberal endorses strong protection of wide freedom of persuasive speech on any topic relevant to how we should live, in part because a social environment of robust free speech will help the individual see flaws in her current aims and desires and life plans and improve them. To benefit from free speech, individuals need an array of critical thinking skills and complementary virtues so they can benefit from the hubbub of expression to which they will be exposed. These considerations have a bearing on what individuals in childhood are owed by way of education and socialization.

In much the same way, a just education prepares people not just for the labor market and the economic sphere, and not just in skills needed to function as good citizens, but in skills and virtues needed for a happy and rewarding life. Even if I have less native talent than anyone else in society and will never win in any social competitions no matter how much education is lavished on me, so FEO is irrelevant to the issue, what am I entitled to by way of educational provision, surely society owes me a good education. What is that? One answer (canvassed earlier in this chapter under the "Autonomy" heading) is that the child has a right to an open future, many accessible options. Here is an alternative answer: each person is owed an education that will facilitate her leading a life filled with genuine goods in the actual circumstances she will face. Each of us needs to be able not only to identify what is abstractly worthwhile, but what suits us, given the strengths and limits of our particular nature, and to form a character that successfully pursues what suits us, within the constraints of what we owe to others.

Which answer is better? Settling this issue would require adjudicating the degree to which a sensible liberalism should impose on us a duty to promote not merely freedom and opportunities but the actual achievement of genuinely good lives for people. On this issue, as on others, liberalism is still contested terrain.

¹ . Thomas Nagel, “Libertarianism without Foundations,” reprinted in his collection, *Other Minds* (New York and Oxford: Oxford University Press, 1995), at p. 137.

² . John Locke, *Second Treatise of Government*, C. B. Macpherson (ed.) (Indianapolis: Hackett Publishing, 1980), p. 8. Originally published 1690.

³ . There are many conceptions of autonomy. In the text the autonomous person is identified as one who chooses well and controls her own will so that she acts effectively as circumstances permit to fulfill her values and implement her choices. In this sense a person could be autonomous, self-governing, even if she lacks any opportunity to act on her choices and values. For a broader conception of autonomy, see Joseph Raz, *The Morality of Freedom* (New York and Oxford: Oxford University Press, 1986), chap. 18.

⁴ . See Joel Feinberg, “The Child’s Right to an Open Future,” reprinted in his *Freedom and Fulfillment: Philosophical Essays* (Princeton: Princeton University Press, 1992), pp. 76-97.

⁵ . Locke, *Second Treatise*, chapter 1.

⁶ . This reading of Locke yields Lockean libertarianism. See Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974). Strictly speaking, Nozick’s brand of libertarianism does not qualify as liberal according to my initial characterization, because the Nozickian libertarian denies there is any duty to promote, as opposed to respect and honor, individual moral rights. We can regard the Nozickian as a limit case, situated at the far edge of the range of liberal doctrines. Nozick’s libertarianism also does not encompass a duty to establish a just state, so does not clearly embrace the elements of liberalism in my characterization that presuppose the existence of a state that enforces certain rights. Of course nothing substantive hangs on what is or is not included in my stipulative characterization of core liberal rights.

⁷ . For vigorous defense of the idea that actual individual consent is required to render it the case that the state wields power legitimately over the individual, see A. John Simmons, *Moral Principles and Political Obligations* (Princeton: Princeton University Press, 1981), *On the Edge of Anarchy: Locke, Consent, and the Limits of Society* (Princeton: Princeton University Press, 1993), and *Justification and Legitimacy: Essays on Rights and Obligations* (Princeton: Princeton University Press, 2001). See also A. John Simmons and Christopher Wellman, *Is There a Duty to Obey the Law? (For and Against)* (Cambridge: Cambridge University Press, 2005).

⁸ . A thorough exploration of this idea is in Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2011).

⁹ . On political liberalism and the associated idea of public reason, see John Rawls, *Political Liberalism*, expanded edition (New York: Columbia University Press, 2005); also Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

¹⁰ I thank Steven Wall for advancing the ideas discussed in this paragraph.

¹¹ Jeremy Waldron defends this position in his *Law and Disagreement* (Oxford: Oxford University Press, 1999).

¹² A locus classicus of instrumentalist argument for democracy is J. S. Mill, *Considerations on Representative Government* (Amherst, NY: Prometheus Books, 1991). Originally published 1861.

¹³ . David Estlund, *Democratic Authority: A Philosophical Framework* (Princeton: Princeton University Press, 2008).

¹⁴ . See Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), Elizabeth Anderson, "What Is the Point of Equality?", *Ethics* 109 (1999), pp. 287-337, and Samuel Scheffler, "What Is Egalitarianism?", 31 (2003), pp. 5-39. See also Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997).

¹⁵ . The leveling down objection asserts that if one holds that equality is valuable for its own sake one must hold that achieving equality by making better off people worse off without improving the condition of worse off people is at least in one respect good (it achieves equality, after all) even if achieving equality in this way is undesirable all things considered. If status among a group of people is purely comparative, so that if one person gains status, another must lose, then the leveling down objection does not apply. But if status has a dimension that is noncomparative, then the leveling down objection applies. Suppose that everyone in society can be assigned high status (all equally have dignity and worth) or low status (none have dignity and worth). Suppose the present situation is that some are assigned high status and some low status. There is no way to raise the status of the low-ranked; they will inevitably lack dignity and worth. But without improving the absolute status of those who now have low status, we can bring about a lowering of the status of some who have high status, so that they come to lack dignity and worth. With this framework in place, we can render some worse off in status without anyone else better off in status, so the leveling down objection applies to the idea that achieving equality of status by degrading some and giving dignity to none is in one respect improving the situation.

¹⁶ . George Orwell, *Homage to Catalonia* (New York: Harcourt, Brace, and World, 1952), p. 115.

¹⁷ . Karl Marx, "Critique of the Gotha Program." J.S. Mill, *Utilitarianism*, George Sher (ed.) (Indianapolis: Hackett Publishing). Originally published. 1861.

¹⁸ . G. A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008); also Cohen, "Expensive Taste Rides Again," in J. Burley (ed.) *Dworkin and His critics* (Oxford: Blackwell, 2004), pp. 3-29. The liberal views that Cohen is criticizing are articulated in John Rawls, *A Theory of Justice* rev. ed. (Cambridge: Harvard University Press, 1998), and in Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge: Harvard University Press, 2000, esp. chapters 1 and 2.

¹⁹ . On luck egalitarianism, see Larry Temkin, *Inequality* (New York and Oxford: Oxford University Press, 1993); Thomas Nagel, *Equality and Partiality* (New York and Oxford: Oxford University Press, 1991); Ronald Dworkin, *Sovereign Virtue*; G. A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989), pp. 906-944, and Richard Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56 (1989), pp. 77-93.

²⁰ . The conception of real freedom as stated in the text may not be fully adequate, as is revealed when one notices that according to it one could qualify as really free to do X (if one were to choose to do X, there is a course of action that one could follow that would result in one's successfully doing X) even if one is unable to choose to do X—and indeed, even if one's inability to choose to do X is brought about by some other agent's deliberate action intended to degrade one's ability to choose to do X. Different examples of this phenomenon might elicit different judgments. We might balk at describing Sally as really free to become a lawyer if antifemale socialization impedes her ability to choose to become a lawyer. On the other hand, we might allow that I am really free to jump on a table and dance the polka while naked in front of my students, even though I could not choose to do that, given the strength of my reasonable conviction that this would be a stupid and offensive action. (I owe my awareness of this possible flaw in the stated idea of real freedom to Steven Wall.)

²¹ . Ronald Dworkin's ideal of equality of resources also contributes to our understanding of the distributive element in egalitarian social justice. Two seminal essays that he published in 1981 are included as the first two chapters of his *Sovereign Virtue*.

²² . Amartya Sen, *Inequality Reexamined* (Cambridge: Harvard University Press, 1992) ; also Sen, *The Idea of Justice* (Cambridge: Harvard University Press, 2009). Sen also argues that welfare is an inadequate conception of people's condition for purposes of deciding what we owe to one another according to distributive justice. But by "welfare" he has in mind either "preference satisfaction" or "pleasurable experience." Even if his argument on this point is correct, this still leaves open the possibility that welfare or well-being objectively construed is the appropriate measure for purposes of the theory of justice. See Sen, "Equality of What?", reprinted in his collection, *Choice, Welfare, and Measurement* (Oxford: Blackwell and Cambridge: MIT Press, 1982).

²³ . Martha Nussbaum, *Sex and Social Justice* (Oxford: Oxford University Press, 1998); also Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge: Harvard University Press, 2006).

²⁴ . See Derek Parfit, "Equality or Priority?", reprinted in Matthew Clayton and Andrew Williams, eds., *The Ideal of Equality* (New York: Macmillan and St. Martin's Press, 2000), pp. 81-125. A thorough recent discussion is in Nils Holtug, *Persons, Interests, and Justice* (Oxford: Oxford University Press, 2010).

²⁵ . The formulation in the text assumes that a prioritarian norm is not vulnerable to the leveling down objection. I would uphold that assumption. But for a contrary view, see Larry Temkin, XXXXXXXXXXXXXXXfill in footnote referenceXXXXXXXXXXXX. On equality, priority, and the leveling down objection, see Holtug, *Persons, Interests, and Justice*, chapter.