Cohen’s Egalitarian Ethos: What Does the Political Require of the Personal?

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Abstract

G.A. Cohen’s critique of John Rawls holds that it is insufficient to approach the problem of justice as one of principles governing laws and institutions alone. Instead, an appropriate social ethos must motivate the citizens to act from these principles in order to ensure that society is characterized by equality. The following will argue that Cohen’s concerns with Rawls are well-founded. However, even citizens motivated by a sense of justice will possess motives that are non-egoistic, yet inegalitarian in effect. Therefore, just citizens should not be expected to enact the same principles as just institutions.
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Notes

Much of what follows will strive to either disambiguate or question technical terminology that is by now familiar to readers of political philosophy. As such, I shall clarify how I intend
certain terms to be understood, unless stated otherwise. Several authors discuss the possible range of social institutions with which Rawls’s “basic structure” might be identified. By “formal basic structure”, I refer only to those institutions that are governed directly by law, the coercive mechanism of the state. “Informal structure” refers to the sphere of social institutions that are sustained only by the choices and preferences of individuals, such as moral norms and other social mores—the family is an obvious example. I shall use “social institutions” in a broad sense, referring to the formal and informal basic structure together. Institutions described as “formal” or “legally coercive” are those belonging only to the formal basic structure.

Additionally, I take Cohen’s views of Rawls to be represented by *Rescuing Justice and Equality*. While published subsequent to three papers critical of Cohen that I discuss here, it includes (in revised form) *Incentives, Inequality and Community* and *Where the Action Is: On the Site of Distributive Justice*, collectively the primary subject of these criticisms.
Chapter 1 Introduction

1.1 Overview

Amongst the primary targets of G.A. Cohen’s critique of John Rawls is the latter’s insistence on the “basic structure” of society as the primary subject of political justice. Cohen contends that Rawls is committed to the thesis that legally uncoerced choices within the framework of a just basic structure need not themselves be subject to the demands of justice. On this reading of Rawls, only social institutions, narrowly defined so as to exclude those such as the family that are not regulated directly by law, are capable of being just or unjust. However, as Cohen argues, this would oblige us to exclude much that has a “profound”\(^1\) effect on the life chances of individuals, which is Rawls’s own stated reason for focusing on the basic structure. Cohen argues that the personal is political; that justice may be demanded of choices made within the institutional framework of society just as it may of the rules governing that framework. Only when the choices of citizens in daily life are motivated by an egalitarian “ethos” will society be just.

Two obvious species of reply present themselves to Rawlsians. The first is to deny Cohen’s claim that Rawls actually does exempt individual choices\(^2\) from judgments of justice in light of his focus on the basic structure. The second is to cast doubt on Cohen’s contention that the politicization of the personal is both desirable and necessary to secure the conditions of a just society. I will affirm, contra defenders of Rawls, that Cohen’s case can overcome both responses. However, I believe Cohen to be mistaken about the nature of the ethos that a just society requires

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\(^2\) Specifically, individual choices that do not concern what sort of basic structure will be present in a given society.
of its citizens. To this extent, I side with Rawls’ defenders in their advocacy of a “moral division of labour”\(^3\) between the virtue of individuals and the justice of institutions.

David Estlund describes two distinct, and incompatible, ways in which we might think the personal to be political. Extant principles of political justice might be applicable to the acts and the choices of individuals. On this reading of the personal-as-political thesis, just individual conduct is that which serves to accomplish the goals set out by principles of political justice\(^4\)-though this need not mean that individuals are obliged personally to undertake the implementation of a theory of justice, e.g. Rawls’s difference principle. Alternatively, individual choices might be subject to their own criteria of justice, irreducible to those which serve to regulate political institutions. Individual choices, like the coercive rules that structure institutions, may be just or unjust. However, they are so according to different (and not necessarily lower, or higher) standards. Cohen’s view is a species of the first reading of the thesis, whereas mine, like Estlund’s, is an example of the second.

This thesis aims to sketch, in a preliminary way, the form of a theory of justice that avoids an arbitrary focus on institutions at the expense of choices, and yet remains distinctively liberal. Responses to Cohen from contemporary liberal philosophers, such as Samuel Scheffler and Kok-Chor Tan, often amount to dismissals of the necessity for individual choice to be held to any definite standard. Both argue that the justice of a given society requires only that the coercive rules which structure it (essentially, the legal apparatus of the state) live up to certain principles. This position requires either an overly optimistic view of the efficacy of such institutions, or a minimalist conception of what constitutes justice. Scheffler has remarked that

\(^3\) A concept devised by Nagel and employed in this context by Scheffler and Tan.

Rawls’s goal is not to free individuals from the “burdens” of duties of justice\textsuperscript{5}, but this is exactly what many critiques of Cohen (including that of Scheffler) amount to.

This thesis draws upon the argument of Estlund to advocate an alternative response to Cohen. It is not the case that that individuals have no obligations to act upon principles of political justice outside of their legal obligations; however, the principles suitable for the governance of institutions are likely to prove incongruent with the sort of moral obligations that should bind individuals. Many of these obligations, I believe, have the unintended consequence of a tendency towards the social inequality.

Assume, for instance, that a society whose institutions are governed by principles of justice intended to ensure an egalitarian distribution of resources and opportunities. The well-off in such a society have a duty, much like everyone else, a duty to ensure the future well-being of their children. However, unlike most members of this hypothetical society, they have the opportunity to marshal a greater share of resources in pursuit of this duty. As a result, social mobility in this society is less than it might plausibly be, in contravention of the objectives of the egalitarian state. What legitimizes the behaviour of the well-off under these circumstances need not be a right to the pursuit of self-interest at the expense of others. Rather, it may be that a competing moral duty has a prior claim to the pursuit of equality on the conduct of individuals. Essentially, I hope to show that more distinguishes left-liberal from socialist morality than just the relative laxity of its conception of justice.

This thesis is structured as follows: the first chapter will provide an overview of the debate on the subject of justice: namely Rawls’s argument, Cohen’s critique, and subsequent


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replies from defenders of Rawls. Though this chapter will be largely expository, I shall argue here that Cohen’s concern is well-founded, and that an exclusive focus on institutions is indeed insufficient. I follow Cohen and Susan Okin before him in using the family as the paradigmatic case in which individual choices, without directly influencing institutions, can have substantial ramifications for the justice of human beings’ affairs.

The second chapter will consist of an explication and defense of my reading of the personal-as-political thesis. I will argue that Cohen’s treatment of the relationship between political principles and individual moral obligation leads to an unsatisfactory account of what obligations people in general have. Lived experience suggests that it is often in respect of our particular relationships to other individuals that we owe to them what we do. When taken into account by a theory of justice, this intuition gives us good reason to believe that we may sometimes act in contravention of equality for moral reasons. The argument to this effect will be inspired largely by Estlund’s discussion of various “prerogatives”, which provide for a limited sphere in which individuals may (or must!) legitimately behave in such a way as to contravene those principles we believe should guide institutions.

I will conclude by taking up Cohen’s critique of Rawls’s metaethics. I will suggest that this critique may well illustrate a significant shortcoming of justice as fairness. However, Cohen’s own commitments in this area indicate the need to distinguish between two kinds of principles, those suited to the governance of institutions and individual affairs.

1.2 Rawls on the Subject of Justice

In Rawls’s usage, a “concept of justice”, abstracted from any particular content, is any set of principles responsible “for assigning basic rights and duties and for determining what they
take to be the proper distribution of the benefits and burdens of social cooperation”\(^6\). Some concept of justice is therefore hypothetically applicable whenever an arrangement amongst persons is responsible for the distribution of anything of utility (or disutility). The subject of *A Theory of Justice*, is social justice, or the justice of society considered as a whole. Rawls presents this as a “special case” of justice, rather than an exhaustive account of such. Instances of social cooperation on a greater or lesser scale may merit entirely different conceptions of justice. Rawls is careful to make explicit that he does not consider the principles he advocates suitable for ensuring, for instance, the justice of arrangements within or amongst nation-states, or amongst the “private associations” of individuals\(^7\).

More precisely, Rawls’s concern is with the justice of the basic structure of society, encompassing those socioeconomic and political institutions whose affects are “profound and present from the start”\(^8\), a rationale I shall refer to as the profundity-of-effect criterion. The basic structure thus determines whether society is marked by deprivation and privilege, or an equal distribution of opportunities. As such, inequalities produced by the basic structure are those for which individuals are neither responsible nor deserving. These inequalities in social position cannot be justified by reference to either, and as such are of special concern\(^9\)\(^10\).

Justice is therefore applicable to the basic structure in light of its role in distributing those starting points which, as they provide a wider array of opportunities for wellbeing, can rationally

\(^6\) Rawls, *ToJ*, 5.
\(^7\) Ibid, 7.
\(^8\) Ibid, 7.
\(^9\) Ibid, 7.
\(^10\) Neither does Rawls believe that moral desert is an appropriate basis for the distribution of social goods other than the starting places of individuals. As it is more controversial to deny that virtue merits reward than one’s fortune in the “natural lottery”, he argues at length for this conclusion. See ibid, 273-277.
be assumed preferable to others. In Rawls’s view, a society is just if and only if citizens mutually assent to a basic structure governed by the following principles

1) “Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all”

2) “Social and economic inequalities are to be arranged so that they are both: a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and b) attached to offices and positions open to all under conditions of fair equality of opportunity”\(^{11}\)

Therefore, in Rawlsian terms, a just society is one whose basic structure serves to distribute the “benefits and burdens of social cooperation” in accordance with the two principles above.

1.3 Cohen’s Critique

Cohen’s critique centres on an ambiguity within the difference principle (2a above). As defined in *A Theory of Justice* and subsequent works, the difference principle stipulates that inequalities are *prima facie* unjust, and can only be justified if they result in benefits for the worst-off. Cohen argues that this commits Rawls to what he calls the “incentives argument” for inequality, which runs as follows.

1) “The talented” designates any who are 1. well-paid and 2. able to vary their economic productivity according to the reward they receive for it.

2) If the talented are provided with incentives towards the employment of their abilities, they will be more economically productive.

\(^{11}\) Ibid, 266.
3) If the talented are more economically productive, the worst-off will be better off than they otherwise would.

4) Therefore, the talented should be provided with incentives, even on pain of resultant social inequality.

If one accepts the premises of the argument above, then its conclusion is acceptable under the terms of the difference principle. However, as Cohen notices, the nature of the “necessity” referenced within is uncertain. Assume that it is true that furnishing the talented with incentives is necessary in order to “unlock” their full potential. This necessity this represents is either intention-independent, or intention-relative. If it is the former, incentives literally make it possible for the talented to produce more, either by enhancing their capabilities or by lowering the cost (to them) of their labours. If it is the latter, then it is necessary to provide incentives because the talented have made it that way.

Cohen finds the notion of an intention-independent necessity for ‘incentivization’ dubious at best. It is difficult to imagine what circumstances would render an otherwise-talented individual literally incapable of performing in their chosen career without some form of economic incentive for doing so. There are, of course, plausible scenarios under which work is stressful or otherwise costly to perform. In order to preserve the mental and physical health of, for instance, doctors, especially taxing work might well require that they be furnished with the means to more effective forms of recreation. However, compensation for the personal costs of one’s labours is a demand of equality, not in contravention of it. As additional payment of this

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13 Ibid, 49.
kind is not intended simply to modify the behaviour of the talented, it does not represent an instance of incentives.

For the sake of argument, let us grant that incentives are necessary in order to maximize the wellbeing of the worst-off. Unless Cohen is mistaken, extra reward is not literally needed for the talented to be economically productive. It is “necessary” because the talented have made it so. If they continue to demand incentives simply because their abilities give them the leverage to do so, they act in contravention of the difference principle. Were the talented fully committed to the Rawlsian notion of justice, they would modify their behaviour so as to remove the necessity for inequality. Recall that according to Rawls, a just society is one in which “everyone accepts and knows that the others accept” and “basic social institutions generally satisfy and are generally known to satisfy” appropriate principles of justice. From the point of view of the talented themselves, receipt of additional payment is not necessary in order to maximize the wellbeing of the worst-off. It is only when seen from a perspective according to which their preferences are beyond revision that incentivization is required.

According to Rawls, a just society is defined in part by its citizens’ mutual acceptance of the conception of justice which regulates social institutions. A society in which many actors do not accept the principles of justice which regulate the basic structure is therefore, on Rawls’s own terms, an unjust society. Cohen contends that if citizens do not share the state’s concern for justice, it follows that government policies should be revised in light of their views. But the reason for doing so is born out of a less-than-ideal circumstance; it does not itself represent a demand of justice. In a society that is just as a whole, institutions such as the state will not have

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14 Rawls, ToJ, 4.
to revise their policies because of individual choices that themselves contravene justice. When choice is motivated by an ethos of egalitarianism, there will be no such need for compromise\textsuperscript{15}.

The obvious retort available to Rawlsians is to state that the difference principle was never intended to apply to individual choices. The primary subject of justice is the basic structure of society. As such, the only choices that can potentially contravene the difference principle are choices \textit{about} the sort of basic structure society will have, and not those made \textit{within} it. So long as the talented strive to maintain the existence of social institutions that uphold the difference principle (by voting, etc.), they respect it. According to this line of argument, Cohen simply exaggerates what justice demands of individuals. To talk of “justice” and “injustice”, when it concerns choices that do not themselves regard the nature of the basic structure, represents a category mistake.

Cohen terms this anticipated reply “the Basic Structure Objection”. His response, summarized as the thesis that “the personal is political,” provides much of the substance of his disagreement with Rawls\textsuperscript{16}. It should be noted that Cohen acknowledges that there are occasions where the Rawlsian canon appears itself to apply the principles of justice to individual choices. However, Cohen points out that Rawls’s own disposition was to resolve such inconsistencies in favour of the basic structure as sole subject of justice\textsuperscript{17}. I shall proceed, therefore, on the assumption that the BSO does indeed represent an “authentically” Rawlsian position. According to Rawls’s own rather rudimentary definition, the basic structure is comprised of “the major

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\begin{itemize}
  \item \textsuperscript{15} Cohen, \textit{RJE}, 73.
  \item \textsuperscript{16} Ibid., 116.
  \item \textsuperscript{17} Ibid., 131.
\end{itemize}
social institutions” of a society\textsuperscript{18}. However, this conceals a substantial ambiguity, as there is no widely accepted definition yielding specific content for “social institutions”.

Cohen believes that this ambiguity can be resolved in one of two ways. Probably the most common reading of Rawls’s passage casts it as the “broad coercive outline of society”\textsuperscript{19}. On this understanding, the basic structure is comprised only of coercive institutions regulated by law, such as political constitutions and the legislation they inspire. Alternatively, it might also include the ethos of which Cohen speaks (whether or not it is one of egalitarianism), as well as social institutions and practices sustained through conventions and norms. The paramount example of this is the family\textsuperscript{20}.

Recall that Rawls’s stated rationale for his focus on the basic structure is the profundity-of-effect criterion. Supposedly, it plays a unique role in the distribution of individual opportunities. Cohen’s contention is that profundity-of-effect cannot, in fact, justify excluding choices made within the rules of coercive social institutions from the scope of judgments of justice. For the “deep inequalities”\textsuperscript{21} that accompany one’s position within the basic structure are determined in part by choices and actions outside the purview of the state, which can result from the prevalent social ethos and not merely the opportunities to which one is formally entitled by the letter of the law.

Cohen’s concern is with the effect of this ethos on equality of distribution, which he takes to be significant. When talented citizens endorse equality with reference to their own economic

\textsuperscript{18} Rawls, \textit{ToJ}, 6.
\textsuperscript{19} Cohen, \textit{RJE}, 133.
\textsuperscript{20} Rawls does list “the monogamous family” amongst the principal institutions to comprise the basic structure (\textit{ToJ}, 6). However, some commentators (such as Kok-Chor Tan) argue that this is only to the extent that families are the subject of a large body of civil law.
\textsuperscript{21} Ibid, 7.
choices, their more modest demands for recompense lead to a more egalitarian distribution than
would be possible if their ethos was one of acquisitiveness. As well, I submit that in general
norms and conventions are significant to justice, sustaining as they do patterns of sexist,
homophobic, racist or otherwise prejudiced attitudes which can affect the justice of society. I
shall take up this assertion in detail in chapter 2.

Rawlsians of a revisionist bent may well open to including the informal structure within
the basic structure. Unfortunately, this is not an option open to them. On Rawls’s account, the
basic structure, as a set of rules, is distinguishable from individual choices made within it. Unlike
the formal basic structure, it is custom, individual preference, and the threat of social (rather than
legal) sanction that serve to maintain the institutions that comprise the informal. In Cohen’s
parlance, the relevant “constraints and pressures…reside in the dispositions of agents.” Social
pressures to engage in or refrain from given behaviours exist only so long as the preferences of
individuals align with them. Laws and other components of the formal basic structure can exist
regardless of the choices and preferences of individuals, but the same cannot be said of the
informal structure.

In summary, the attitudes of the society (and the particular family) into which one is born,
for better or worse, will determine in part the opportunities present in an individual’s life.
Rawls’s justification for emphasizing the basic structure as the subject of social justice therefore
necessitates its inclusion. However, the basic structure supposedly represents the framework of
social institutions in which individuals pursue their conceptions of the good, but not those

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22 Cohen, RJE, 143.
23 Cohen acknowledges this, though it is not the focus of his discussion. Ibid, 117.
25 Cohen, RJE, 135.
conceptions themselves. It is simple to distinguish between choices about what kind of basic structure ones desires to establish, and how to behave once it has been. For example, I might choose to vote for a certain tax policy, and then modify my behaviour so as to best take advantage of it.

However, this distinction is rendered unintelligible when it comes to social norms that exist only so long as individuals continue to actualize them. As Cohen says of the family, it “has the character it does only because of the choices that its members routinely make” (emphasis mine)\textsuperscript{26}. Social pressure to conform with any given norm cannot exist without there being other individuals who do choose to conform with it. Plainly it would not have been expected of men in the 1950s that they wear their hair short if a majority had never done so. Thus there is no distinction between acting within, and acting upon, the informal structure. The attitudes of a society do, in a sense, represent rules, but to obey (or disobey) those rules is functionally a vote to maintain (or replace) them.

In summary, the basic structure can incorporate only those social institutions whose persistence is not a matter of the choices made within them. The choice/structure distinction cannot be maintained if the informal structure is included. But when excluded, the basic structure no longer has a monopoly on “profound” influence on the life chances of individuals. Ergo, on Rawls’s own understanding of justice, the basic structure alone cannot be its subject.

1.4 Defenses of the Basic Structure Objection

Defenders of Rawls have offered two species of reply to Cohen’s claim that an exclusive focus on the basic structure is arbitrary. The first, presented by Samuel Scheffler, argues that

\textsuperscript{26} Ibid, 135.
reasons beyond “profundity of effect” were open to Rawls as justifications for its emphasis. The second, advanced by Kok-Chor Tan, aims to demonstrate that Cohen is in fact mistaken to believe that anything beyond the influence of a basic structure regulated effectively by the appropriate principles of justice is capable of profound effect on the life chances of individuals. Both contentions, if true, would redeem Rawls’s insistence on the basic structure as the primary subject of justice. However, as I shall demonstrate, both arguments are suspect. The former depends on a highly creative reading of Rawls’s text, whereas the latter is simply empirically untenable.

Scheffler contends that Cohen proceeds too hastily on the assumption that no criterion could place the basic structure at the forefront of a theory of social justice other than the fact that its effects are “profound and present from the start”27. He finds textual evidence to suggest that Rawls did so for at least two other reasons. First, the basic structure is partially responsible for determining not only the success with which individuals satisfy their wants and needs, but with shaping which preferences they form in the first place28. While this is certainly true, it is unclear why it should be assumed that this is not merely one of the ways in which the basic structure meets the profundity-of-effect criterion. Even if we grant that the shaping of aspirations is in fact a distinct justification, it is not one that the formal basic structure monopolizes to the exclusion of the informal.

However, the second reason Scheffler cites as a justification for emphasizing the basic structure merits closer scrutiny. Whether or not a transaction or other contract amongst individuals or private associations is just depends largely on “background” conditions external to

27 Scheffler, “BS”, 121.
28 Rawls, ToJ, 229.
the agency of those involved. It is outside both the responsibility and the capacity of citizens to determine whether the long-term consequences of their choices will serve to undermine the conditions necessary for fair transactions in the future\textsuperscript{29,30}. An ethos of egalitarianism like that espoused by Cohen may suffice to ensure the justice of particular transactions. But it is not sufficient to preserve the context in which individuals may assume that they contract from relatively equal positions.

Such an argument certainly does work against any who would deny that the social institutions of the formal structure have a special significance for justice. Note, however, that Cohen is not committed to such a position. His claim is that having a just basic structure, as Rawls conceives of it, is not a \textit{sufficient} condition for having a just society. Now, Scheffler’s background justice objection would indeed defeat the inverse of a Rawlsian, who claimed that a just basic structure was neither sufficient \textit{nor} necessary to a just society (if any hold such a position!). But Cohen, on the other hand, can happily admit that there must be some mechanism to preserve the conditions of just contract and transfer, while still insisting that the persistence of those conditions will not independently suffice for justice.

Kok-Chor Tan, in defense of his “institutionalist” conception of justice, casts doubt on Cohen’s assertion that an exclusive focus on the basic structure neglects the significance of the private sphere for social justice\textsuperscript{31}. He draws attention to the fact that Cohen’s case “seems wrongly to treat Rawlsian institutional justice as entirely at the mercy of \textit{existing} individual

\textsuperscript{29} Essentially, a repudiation of the Nozickean axiom that what arises from just steps is itself just.
\textsuperscript{31} Scheffler’s critique of Cohen touches upon a similar point. However, Tan formulates the point against which I seek to press with greater specificity.
preferences”\textsuperscript{32}. Rawls, after all, defines a just society in part as one where individuals acknowledge the principles that regulate the basic structure. Amongst the aims of those principles is to “inculcate in people a sense of what they are justly entitled to”\textsuperscript{33}. If we imagine a society in which everyone is accustomed to satisfying their preferences within the limits set by a just basic structure, it is likely that their tendencies towards self-seeking behaviour will be curbed significantly.

Tan’s argument does indeed present a formidable challenge to Cohen. For his position relies, possibly more so than that of Rawls or Cohen, on the fact that the preferences and dispositions of individuals are subject to change. However, it is an (unanswered) empirical question whether or not institutions can be relied upon to form attitudes in citizens that echo the principles which regulate them. Tan is unquestionably correct in his assertion that individuals are, to a great extent, the product of their circumstances. But it is less clear that persons exhibit any tendency to reflect the surroundings to which they are accustomed in a way that is either predictable or systematic.

No data exists (or could plausibly be gathered) by means of which we might ascertain the relative contribution of different aspects of one’s environment towards their dispositions. Anecdotal evidence, however, certainly seems to provide just as many instances in which prevailing norms inspire negative reactions as in which they imprint themselves upon agents. For instance, the New Right movement that arose in both politics and philosophy during the 1970s was a reaction against the ideology of social welfare. Tan is correct to think that just institutions will have a hand in forming the attitudes of persons. Nonetheless, it is not at all clear that any


\textsuperscript{33} Ibid, 341.
political theory can take for granted that its principles, once enacted, will reproduce themselves in those who live under their influence.

Take, for instance, the existence of Canada’s laws against hate speech. They provide a rational incentive to become accustomed to refraining from defaming minorities. Nonetheless growing up in a society that enforces such laws does not guarantee one will be free of bigoted attitudes. Indeed, such laws often serve as a rallying point for white supremacists, who cite them as proof that the state in some way discriminates against Caucasians. Sometimes the attitudes of citizens are formed in opposition to the principles exhibited by the basic structure of their society.34

Therefore, Rawls and his defenders are mistaken to believe that the basic structure has a unique significance for justice. The influence of tradition and social convention, forming what I call the informal structure, can stake the same claim to being “profound and present from the start” as that of the basic structure. Whatever principles the basic structure is governed by, they cannot wholly or reliably determine the nature of the informal. Therefore, exclusion of the latter from the subject-matter of justice cannot be justified. As individual choices across society are constitutive of the informal structure, it follows that the personal is of political significance. I turn now to Cohen’s discussion of what this must entail.

34 In personal correspondence, Tan has suggested to me that the absence of a reliable mechanism for inculcating a sense of justice in citizens makes Cohen’s arguments just as doubtful. Note, however, that Cohen stakes no claim to pragmatism. He is not committed to the belief that the necessary ethos is likely, nor that there is some reliable method of bringing it about. Email message to author, July 14, 2012.
Chapter 2 The Personal As Political

2.1 Cohen on the Relationship Between Personal and Political

Cohen repeatedly stresses his belief that to faithfully uphold a principle of justice entails that one must act in accordance with it, and not merely select it as a means to regulate social institutions. If my “sense of justice” applies only at the ballot box, I am not upholding the difference principle or any other that mandates equality. His comments on the matter strongly suggest that he envisions the personal-as-political thesis literally. A “society of wholehearted commitment to the (difference) principle” is one in which it applies to the motives behind economic choices. Thus in such a society, the talented will constrain their demands for extra reward to that permitted by the burdens of their career, or by a finite personal prerogative (see below).

Exactly what the nature of this relationship is, however, remains an open question. Cohen is right to note that the prevailing attitudes of citizens, sustained by individual choices, can systematically disadvantage other members of society, even in the presence of just institutions. This must on pain of arbitrariness count as injustice. However, difficulties remain. I will argue that Cohen’s statements suggest just individual choice essentially amounts to implementation of the same principles governing society as a whole. But these principles are ill-suited to describe the moral duties borne by individuals. For example, these moral duties often arise contingently. I owe x a favour. I owe y simply because of the nature of our relationship. I am obligated to provide x with something due to a contract between us, and so on.

35 Cohen, RJE, 74.
36 Ibid, 70.
37 Ibid, 69.
38 Ibid, 70.
As Cohen says, justice obtains when each person has what they are due\textsuperscript{39}. Everyone is due equal concern from the state, but not from other individuals, who may be friends or strangers. It thus seems problematic to suggest that personal choices conducive to justice must necessarily exemplify principles suited for the governance of coercive institutions. I will develop this theme by taking up Thomas Nagel’s concept of a moral division of labour, as well as Tan and Scheffler’s employment of it in their defense of Rawls against Cohen. However, in what follows I will deny that the division of principles between those that govern structures and those that govern choices suggests a thorough division of politics from personal morality.

I must clarify the nature of my objection to (my reading of) Cohen. I do not believe that it is for reasons of demandingness that we should be reluctant to adopt his conclusion. Cohen quite clearly does not believe that self-interested choice is intrinsically unjust. He acknowledges as legitimate a “personal prerogative”, providing some scope for the acceptable pursuit of one’s own interests\textsuperscript{40}. He is not committed to the implausible thesis that the plight of the worst-off must always be everyone’s foremost concern. What concerns me is the implication that, when and to the extent that choices are expected to live up to some standard of justice, that standard resembles one to which coercive institutions might be held. I object not to the extent, but the nature of Cohen’s demand for justice in individual conduct.

2.2 Estlund’s Prerogative Argument

David Estlund takes up the issue of personal prerogatives in his essay \textit{Liberty, Equality and Fraternity} in Cohen’s Critique of Rawls. Cohen licenses the pursuit of self-interest within the scope of a legitimate “personal prerogative” that is left undefined. Estlund argues that

\textsuperscript{39} Ibid, 7.
\textsuperscript{40} Ibid, 61.
Cohen’s acknowledgement of this logically entails that he must recognize at least three more such prerogatives, connected to other motives. First, there must be some “scope for pursuit of the interests of one’s family, loved ones and friends”\textsuperscript{41}, even when the satisfaction of those interests is not demanded by justice or any other moral factor.

Second, there are “inequality producing moral requirements”\textsuperscript{42}. At times, the interests of the well-off will have a prior claim to my efforts than the worse-off, if some interaction between us has entitled them to my concern. Estlund gives the example of negligent property damage. If one drives over a well-off neighbour’s garden, it is their responsibility to fix it. Obviously, from any plausible moral perspective, a damaged rosebed is far removed from the most undesirable possible states of affairs. However, it is one for which a specific individual is directly culpable, and as such merits their concern.

Third, there are “weak moral factors”\textsuperscript{43}. As his admission of a prerogative to pursue egoistic ends illustrates, Cohen concedes that there are some circumstances under which self-interest may take precedent over satisfying the demands of the difference principle. Presumably, there must then also be some circumstances under which moral duties of less but still significant import may trump the pursuit of equality. Under some conditions, it is permissible to devote $15 to eating out rather than donating it to UNICEF. It follows that it must also sometimes be acceptable to donate the $15 to the World Wildlife Fund instead.

These motives are not egalitarian. None will lead the talented members of society to do more for the worst-off. Yet at the same time none of them are egoistic. Motives such as these

\textsuperscript{41} Estlund, “LEF”, 101.
\textsuperscript{42} Ibid, 102.
\textsuperscript{43} Ibid, 102.
will undoubtedly be present even in a society where everybody affirms the difference principle (in Cohen’s exacting sense). Cohen denies that the “modest right of self-interest” he acknowledges can vindicate any substantial inequality. However, Estlund’s argument illustrates that there are at least three reasons other than self-interest for which one might act in ways that make the worst-off than they otherwise might be. Cohen would, in light of allowing for the pursuit of self-interest, find it hard to deny that acting from these three additional motives is compatible with justice. Therefore, the degree of inequality that the personal prerogative he acknowledges must sanction is greater than Cohen believes.

However, Estlund’s choice of the word “prerogative” obscures just how compelling his case is. Sometimes, acting from the motives he describes is not a right, in the conventional sense, but rather a duty. It is not merely that I am, at times, permitted not to pursue the interests of the worst-off. Sometimes, in order to comply with other moral duties, I am required to employ my talents for purposes not in their best interests. The most obviously moral of Estlund’s prerogatives are his inequality producing moral requirements; it is clearly obligatory that I should repair damage I cause to the holdings of others. However, it is the motive of affection that has the greatest inegalitarian potential. Pursuing the interests of one’s children, especially in the domain of higher education, has the potential to enshrine class differences.

Imagine that I am, by Cohen’s definition, talented. Thus I am favourably positioned in society, so that I am able to vary my economic productivity in accordance with what I receive for it. If I wish, I may therefore demand incentives for optimum effort. Assume also that I am a sincere egalitarian in the mold of Cohen. This is to say that I do not believe my talents entitle me

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44 Cohen, RJE, 119; see footnote 8.
45 Except in the limited sense that one has a right to do what they must do. It would be highly unusual if I were to say that I have the right to pay my taxes. “May” implies “may not”.
to greater reward than others receive; that my concern for the worst-off extends to and influences my day-to-day economic choices. Estlund’s point about prerogatives makes it clear that I may yet demand incentives for benign, and yet non-egalitarian, reasons. For example, I may distrust the public school system, and therefore wish to send a favourite nephew to private school. Or I might be concerned for the state of the Amazon rainforest, and thus endeavour to obtain extra reward so that I might donate it to ecological charities. In both cases, I am culpable for the fact that the worst-off enjoy a lower level of wellbeing than they might otherwise. But in neither am I, in any conventional sense, behaving selfishly.

Cohen has offered a reply to the prerogative argument. Particularly relevant is his denial that the identification of three additional justifications for departing from egalitarian conduct license a departure which is correspondingly greater. Intuitively, this seems correct. Assume that working at my job benefits the worst-off, but that I have an interest in taking time to attend raves in Ibiza. In light of this interest, I might be entitled to a week off in which I am not economically productive. But it does not follow from this that my additional interest in touring the Louvre, which cannot be satisfied at the same time as a trip to Ibiza, justifies taking an additional week off.

However, the intuitive appeal of this point depends on a too-literal reading of “prerogative”. Devoting some measure of my time to pure self-interest, as opposed to the interests of the worst-off, is permitted. I need not go on vacation, but I should not be criticized for electing to. However, attending to the needs of close family and friends is not something I may do. It is something I have a responsibility to do. The fact that I have multiple interests that

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46 The assumption is that the greater my pay, the less of societies’ resources goes to the worst-off.
cannot all be satisfied in one week’s vacation does not make it reasonable for me to ask for two. Instead, now suppose that my relative falls ill and requires care. It now becomes much more reasonable for me to ask for a second week off. Denying my request for a vacation so that my labour power will be of the greatest benefit to the least advantaged would be, as Cohen admits, excessively demanding. But denying me time off to care for my sick relative would be to elevate the demands of equality above those of other moral factors.

Cohen’s second point is that Estlund’s arguments are incompatible with Rawls’s insistence that principles of justice apply to the basic structure of society. I believe this is correct, as he acknowledges that “there must be an ethos of justice that condemns unbridled egoism.” As this elevates choices to the status of just or unjust, Estlund’s revisionism is substantial enough that he cannot be called a Rawlsian. However, this does not function as a defense of Cohen’s own position against the prerogatives argument. Rather, it shows that Estlund occupies a middle position between Rawls and Cohen. As my arguments above show, I believe this to be the most defensible approach to the problem of justice.

Even abstracted from the particular content of a reply to Cohen’s case against the compatibility of incentives with the difference principle, I believe the prerogatives argument illustrates a significant point. Institutions, such as the welfare state, stand in an equal relationship to each and every citizen. Cohen defines justice as what obtains when everyone has what they are due, and everyone is due precisely the same level of concern from the apparatus of governance and those responsible for maintaining it. But individuals are not like this. What I am due from one person varies greatly compared to what I am due from the next; such duties are not

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48 Ibid, 392.
50 Cohen, RJE, 7.
systematic. If I were a hermit, with few relationships of any not obtaining between myself and others, I would owe and be owed very little. “What each is due from one’s fellows” varies amongst interpersonal relationships, in a way that “what each is due from one’s government” does not.

2.3 The Moral Division of Labour

Estlund’s case against Cohen is strengthened by the fact that it does not oblige him to deny that the informal structure, or the choices that sustain it, are susceptible to judgments of justice. The prerogative argument is perfectly compatible with the contention that a just society cannot be one in which egoistic choice is condoned. All it rests on is the claim that the duties of individuals are pluralistic; that they are responsive to a multitude of demands. Indeed, there is no a priori reason to suppose that individuals are not sometimes faced with responsibilities that compete with one another (such as a duty to equality coupled with a duty to ensure the best life for one’s children). The fulfillment of one moral duty may be incompatible with the fulfillment of another.

Estlund notes that there are two incompatible ways in which we might take the personal to be political. On this reading, choices made in one’s personal life are no different from choices that concern political institutions. Thus the ends that principles governing the formal structure of society are intended to bring about are properly the same ends at which one’s motives should aim. However, it may also be the case that private associations (such as the family) are answerable to standards of justice different from those governing society as a whole. On this reading, justice can be predicated of the choices one makes in daily life; but these are

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51 Estlund, “LEF”, 105-106.
answerable to standards that are not derived from those by which we evaluate formal institutions. The latter is, I believe, the correct way to conceive of the relationship between the personal and the political.

I turn now to Scheffler and Tan’s advocacy of a moral division of labour, between principles for institutions and principles for individuals. I argue that such a division is perfectly compatible with the latter reading of the personal-as-political thesis. The simple fact that the standards to which we hold formal institutions are alien to social life does not suggest that political justice is unrelated to individual choice. The right distinction is between the responsibilities justice confers upon persons and upon institutions, not between public justice and personal morality.

Nagel conceives of each individual as capable of viewing through world through two standpoints. The personal standpoint is that from which we view and interpret the world according to our “personal aims, interests, and desires”\(^{52}\). We occupy the impersonal standpoint whenever we take into consideration ends that are not our own; when we abstract to a perspective from which “our interests” matter only in that they are interests, and not that they are ours. Unsurprisingly, the demands of the two viewpoints often clash. The personal standpoint leads us to acquire selfish interests whose satisfaction the impersonal tells us we could not possibly expect others to facilitate. Ethics, according to Nagel, is a response to this realization. The interests of others matter equally, regardless of our inability to experience their personal standpoint directly\(^{53}\).


\(^{53}\) Ibid, 4.
The moral division of labour emerges as Nagel’s proposed solution to the problem of reconciling within the self the oft-conflicting demands of two very different viewpoints. His suggestion is that appropriately designed social institutions might assign the duties derived from the impartial standpoint to specific social roles. Thus the individual might, through their performance in designated spheres of life, be satisfied that they had earned license to act upon the demands of the personal standpoint in others. The “division” in question is between the principles deemed appropriate to govern each social role. At first blush, this certainly seems to imply a division between personal and political. If I know that I have played the role of a taxpayer adequately, I can play the role of an economic agent without concern for the standards of the former.

However, Nagel’s hope is for moral theory to reconcile the personal and impersonal standpoints within the individual, and not to give precedence to one over the other. In fact, in a strikingly similar tone to Cohen, Nagel criticizes the left-liberal tradition’s inclination to treat the public and the private as subject to standards so alien to one another as to prohibit “coherent reflection” in a single personality embracing both. The demands of the impersonal standpoint are not conceived of as external to the individual subject to them. Rather, they express the needs of “a very important part of ourselves.” The intent of the moral division of labour is to resolve conflicting demands against agents; but this conflict is within the self, and not merely between the interests of the individual and those of the collective. In short, it is a misconception (and an

54 Ibid, 53.
55 “...pile up your earthly goods on the mundane plain of civil society but be a saint in the heaven of politics”. Cohen, RJE, 2.
57 Ibid, 53.
oversimplification) of Nagel’s enterprise to reduce it to an effort to insulate private life from the demands of justice.

2.4 Political and Moral Philosophy

Tan adopts a different strategy. He posits that the origin of the personal-as-political thesis lies in a denial that the questions of political philosophy are fundamentally distinct from those of ethics. As he sees it, to ascribe justice to private life creates a linguistic redundancy, reducing the latter to nothing more than morality write large. This is how it was for Plato and Aristotle; the “ancients” understood the just state to be a macrocosm of the virtuous individual, and vice versa. This contrasts starkly to the view of Rawls and most other modern political thinkers, for whom justice sets out the boundaries of what one may do in the personal domain without comment on what one should. He attributes to Cohen the view that “the question ‘how ought I to live my life’ is not fundamentally distinct from the question ‘how ought we to live together’”.

I believe that this distinction is an important one, and it is not my intention to repudiate or compromise it. No theory is liberal if it sets out to ensure social harmony by inculcating compatible interests and values in citizens rather than providing a means to reconcile existing ones. In pointing to the influence of informal custom and opinion, as sustained by the choices of individuals, I have simply noted that these factors may undermine justice. Such a view does not entail the (obviously illiberal) position that there is any such entity which could legitimately exercise the authority necessary to make persons behave in a way optimally conducive to social justice. In other words, my belief that choice may sustain or give rise to injustice does not...
entail that it is, in Tan’s words, “the business of the state” to make good persons, and not merely good citizens.

Moreover, Cohen argues that a just society is necessarily one in which certain facts obtain about the attitudes of citizens. This is not the same as arguing that the state should take any official position on the relative merits of individual conceptions of the good. Of course, some plans of life will of course be incompatible with this view of a just society. One whose idea of the good life is to be a self-made millionaire might well be out of luck in Cohen-country. However, as a Rawlsian, Tan is not well-placed to object to this. Even the most rigidly neutral liberal conception of justice is incompatible with some conceptions of the good, particularly those incompatible with principles of justice.61

Neither does Cohen’s position negate the difference between the unjust and the immoral, though it does perhaps diminish it. The relevant debate concerns whether or not the justice of a society is partly a factor of the ethos upheld by citizens. Not every objectionable choice necessarily reflects the presence (or absence) of any such ethos. For example, I might be a reckless or aggressive driver. Driving aggressively may be dangerous, wrong, illegal, or any combination of the above. But the fact that I do so may or may not represent any general truth about the ethos most citizens hold. If many motorists choose to drive recklessly and endanger their fellows, and this contributes to a general pattern of disregard for others, than this represents and injustice. For the personal-as-political thesis to hold water, we need be ready to condemn choices as injustice only when they reflect some fact about society broadly conceived. In the latter case, there is an identifiable truth about more than just an individual’s actions. A society is

61 Namely those that impose on the liberties of third parties.
not injustice simply because some x makes choices harmful to others. It is unjust when those choices are systematic.
Chapter 3 Cohen’s Metaethics

3.1 The Thesis

The preceding three chapters have, I hope, illustrated deficiencies with two approaches to the problems of justice. Emphasizing the basic structure at the expense of the informal ignores social norms (the nature of which, I have argued, cannot be assumed to be determined by the basic structure) that shape how well people’s lives go. Conversely, subsuming the choices that sustain these norms (or the “ethoses” of society) under the governance of principals that also regulate institutions like those of the state presents an implausible picture of the sorts of responsibilities that individuals generally have to one another. In traditional liberal fashion, I have proposed a middle way: choices within any set of coercive rules have the potential to undermine justice. However, choices should not necessarily be regulated by these very rules. The following does not constitute further direct argument for my thesis. In what follows I will show how some of Cohen’s own convictions point naturally towards this thesis. In particular, I will suggest that Cohen’s (hitherto undiscussed) metaethical critique of Rawls implies a position consistent with the one I outline here.

The distinctive metaethical case that Cohen builds against Rawls hinges on the distinction between facts and principles. “Facts” in this distinctive sense are empirical claims. Specifically, they are those claims about the nature of human beings or about society that are cited as grounds for principles. An example is “the interests of persons are best served under conditions of social equality”. “Principles” are normative statements, concerning how agents should be have or how the world should be made to be. They tend to take a form like “the interests of persons should be
served as best as they can be”. Note that both categories of statement are propositional and truth-apt, and thus principles may also be factual in a non-distinctive sense.\(^{62}\)

Many philosophers,\(^{63}\) Rawls included, believe that principles are contingent upon such matters of fact. Cohen argues, however, that if\(^ {64}\) any such principles exist, they answer to facts only in respect of some other principle that is true independently of any fact.\(^ {65}\) For a fact to confer support on a principle, there must be a further principle generating a normative reason to take heed of that fact. If a person truly understands their reasons for endorsing the principles that they do, there cannot be an infinite chain of justification. Cohen’s central thesis is that the terminus of any such chain of justifications for the normative import of a fact must ultimately lie with a principle. The argument is as follows

1) If fact F supports principle P, there exists some explanation for why it does so.

2) This explanation must invoke a further principle P\(_1\)\(^ {66}\).

3) Eventually, this chain of justifications will come to rest at a principle that does not answer to factual claims.

4) Thus, every fact-sensitive principle will ultimately answer to some fact-insensitive principle\(^ {67}\).

Consider the principle “thou shalt not abridge the liberty of others”, the normative force of which stems from the fact that “others are better off left to manage their own affairs”. It is not

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\(^{62}\) Cohen, JJE, 229.  
\(^{63}\) Most, Cohen is inclined to think. Ibid 231.  
\(^{64}\) Emphasis here; this does not commit him to the thesis that, in fact, some principles actually are fact-dependent.  
\(^{65}\) Ibid 232.  
\(^{66}\) Which, in some cases, may answer to a different fact, but not the F that supports P.  
\(^{67}\) Ibid 236-237.
by logic that the latter entails the former; there must be some explanation available for why it does so. This explanation must, in turn, include some reason for why the fact in question bears the property of motivating-agents-to-adopt-certain-principles. This reason, of course, is necessarily a normative principle, in this case “one should act so that others are better off”. This is, in turn, a nakedly moral statement. It describes how things should be, while making no claim about the nature of the world or of persons. If the fact in question (that others are better off left to manage their own affairs) was falsified, the principle to which it lends support may cease to be true; we would not have this reason to refrain from abridging the liberty of others (though some other reason might still obtain). But the principle that would lead us to take heed of the fact that persons left alone were better off (that we should try to make people better off) would remain true.

Rawls holds the opposite view. He tells us “that there is no objection to resting the choice of first principles upon the general facts of economics and psychology” and “fundamental principles of justice quite properly depend upon the natural facts about men in society” (emphasis mine)\(^6\). When contrasting his conception of justice with the principle of average utility, Rawls cites the fact that the latter is more psychologically demanding of those that affirm it as a reason to adopt the former\(^6\). As such, the principles that he describes as “fundamental” are, in Cohen’s parlance, “rules of regulation”, which are chosen “in the light of what we expect the effect of adopting them to be”, and not because they represent deep-seated convictions\(^7\). They are not, in fact first principles of justice\(^7\). For if the fact that justice as fairness best fits the

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\(^6\) Rawls, ToJ, 137.
\(^6\) Ibid 155.
\(^7\) Cohen, RJE, 276-277.
\(^7\) Ibid, 276.
psychological makeup of contemporary *homo sapiens sapiens* is to yield a reason to adopt justice as fairness, then it must be the case that we (normatively speaking) should adopt a conception of justice well-suited to our psychological makeup. If that fact is true in turn, it must be because our conception of justice should serve us well. *That*, in turn, is a fact-insensitive principle.

Of course, as Cohen acknowledges, the fact that some principle is, on account of its fact-sensitivity, really a rule of regulation, does not demonstrate that the principle/rule is false. What he argues against is the Rawlsian tendency to conflate such rules with fundamental principles of justice; to mistakenly identify rules, regardless of their merit, with the (unacknowledged) principles that make those rules meritorious. Imagine, for instance, that the general facts about society known in the original position included the fact that inequalities, for whatever reason, were never to the benefit of the least advantaged. The principles that would then be rational to adopt would not include an analogue of the difference principle, for the facts are such that no hypothetical inequality might be justified by it. The fact-sensitivity of the difference principle (as well as of rules adopted in the situation above in which it is extraneous) means that it cannot be a principle in the strictest sense. Some logically prior moral premise is necessary to generate it from the fact that, in our society, some inequalities *do* benefit the least advantaged.

### 3.2 Rules of Regulation and Incentives

I am inclined to agree with Cohen’s metaethical position. However, I believe that a substantial tension exists between the metaethical thesis in question and Cohen’s criticism of the

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72 Ibid 275.
73 Perhaps one inhabited by some other sentient species.
74 This would not rule out the difference principle; but it would eliminate any grounds for adopting it.
75 I am unable to discuss in depth here the ramifications of Cohen’s position for Rawls. It will suffice to say that I am unsure as to whether or not it represents a significant challenge to Rawls.
Rawlsian argument for incentives. As summarized in chapter 1, he argued that Rawls’s emphasis of the basic structure insulates many injustices from the realm of the political. Given Cohen’s steadfast egalitarianism, his concern is largely with the resultant act that justice as fairness cannot condemn the acquisitive nature of the talented. Therefore, the difference principle, given its inapplicability to choices, must countenance demands for extra pay that are made “necessary” to benefit the least advantaged only by the mindset of those who advance them.

Unless Cohen is mistaken about the fact-insensitivity of ultimate principles, his metaethical thesis weakens his case against Rawls somewhat. I say “somewhat” because it calls into question only his case against the incentives justification for inequality, not the greater argument against excluding choices and their consequences from judgments of justice. In Cohen’s words, what I question here is the substance of the anti-incentives argument, but not its form.

Grant both that judgments of justice are applicable to individual economic choices, and the aptness of the metaethical argument against Rawls. If the difference principle is not a principle, but a rule of regulation answerable to some higher truth about equality, then it is still not apparent that it should be applicable to individual choice. For Cohen does not deny that such rules, well designed, represent “the all-things considered best principles to live by”. He denies only that those things are the same thing as justice. The facts about persons are different than the facts about laws and government agencies. They have a whole host of personal projects and partial concerns, as discussed in preceding chapters. Therefore, the rules of regulation suited to

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76 In this sense, it is somewhat akin to Estlund’s prerogative argument, which is premised on the existence of reasons to demand incentives that are not themselves egoistic, rather than a denial that egoism itself can be condemned.
77 Ibid, 117.
78 Ibid, 275.
those lives are not the same as the rules suited to laws and governments. This is true even if both sets of facts support relevant rules in light of the same fundamental principles (and Rawls provides no such principles to begin with).

There is a reply available here, with some promise. One who wished to affirm the anti-incentives argument and the difference principle could identify the first principles by which persons in our revisionist-Rawlsian society are bound with the status of free and equal persons those in the original position must identify one another as ("thou shalt, in thy original position, put forth only those demands one could expect an equal to satisfy"). There are thus first principles for individuals to model their economic choices on. Furthermore, they are the same first principles that, in conjunction with the appropriate psychological and economic facts, gave rise to the difference principle (cast as a regulation). Regulatory rules intended for persons that are derived from such principles will therefore be egalitarian in effect. They would lead individuals to act, if not from the difference principle, from the spirit of such. Thus, presumably, they would still be disinclined to demand inequality-generating incentives for the exercise of their talents.

However, note that my argument is not a recasting of the Basic Structure Objection. I need not deny that principles apply to individuals in order to offer it. As Estlund has shown us, demands for incentives may well have underlying motives that, unlike egoism, are not themselves unjust. My argument here would be hollow if those facts that would have to be true in order to necessitate regulatory rules distinct from the difference principle would themselves represent injustices. But, as I hope to have demonstrated satisfactorily in chapter 3, entirely

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benign motives that no plausible conception of justice could hope to excise from society would fit the bill. So long as the facts that obtain of individuals justify their pursuit of a greater plurality of moral ends than institutions aim to attain, there is no reason to believe the rules of regulation they should adopt will be equally egalitarian in effect.
Conclusion

Cohen has shown us that the justice of a society is not reducible to the rules governing its “coercive outline”: the legal entities that draw the limits of acceptable conduct. In any society, there will obtain amongst the attitudes of citizens (independently of these rules) patterns of convention, habit, preference, ideology and moral belief; the “ethos” of the society in question. These will, in part, determine the benefits and burdens of different starting points in life. It is Cohen’s belief that the appropriate ethos of egalitarianism is integral to the just society. However, as I have argued, there are reasons to be concerned with social ethos beyond distributive equality. If, as Rawls and those he has inspired suggest, we treat these patterns as beyond evaluation in political language, we then run the risk of ignoring significant causes of injustice.

Persons, however, are not like the formal institutions by which the state governs. They have their own ends to pursue and their own partial concerns for the wellbeing of other individuals; in short, as Nagel puts it, they have lives to lead. To assimilate the standards to which we hold persons to those applied to institutions misrepresents the commitments and responsibilities that individuals actually do bear. Persons often have obligations toward one another based on the existence of particular relationships of family and friendship, and these moral obligations have no parallel amongst the duties of the state. Sometimes, the interests of one’s dearest associates will yield good reason to act contrary to the egalitarian project. This is not egoism; it is empathy.

I believe that I have sketched the beginnings of an approach that is responsive to both of these broad concerns. The personal is certainly political, but this does not mean that the rules for

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just conduct should be an echo of the rules for institutions. As I have argued, even if individuals ultimately answer to the same principles as institutions, these principals will not make the same demands of them. Even if the foremost virtue of government is that it promotes an equal distribution of social goods, the foremost virtue of citizenship might not be. A just society, then, may require less equality than Cohen envisions. But neither will it come about if citizens’ concern for justice extends no further than the ballot box.
References


