Rational and moral action: a critical survey of rational choice theory

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CHAPTER XXIV

EQUALITY, LIBERTY AND DISTRIBUTIVE JUSTICE

1. Introduction

In this chapter I address two issues. The first is a final judgement about the ethical theories that were presented in the preceding chapters, especially questioning their view on distributive justice. The second is a view on inequality that does not depart from some hypothetical situation. This issue will occupy the largest part of this chapter.

We can separate theories of distributive justice into three elements: moral principles (e.g., treating people equal) => rules of justice (e.g., the average principle) => a particular distribution. The principles define the rules and the rules generate the distribution. We have seen that there is no sense in trying to establish which principle is most justified. A principle is more or less the inevitable outcome of a given construction of the original position and the accompanying
theory of the good. What we can do is to question this construction and to question the legitimacy of the chosen principle. I have done this in the preceding chapters. In this chapter I want to see to which extent the three principles create a moral space for a policy of distributive justice. This is the subject of section 2. In the sections that follow I do not longer refer to a hypothetical construction as an original position to ground a rule of justice. Instead I will make a direct appeal to notions like liberty, fairness and equality. I first discuss egalitarian policies that turn on the question whether distributive justice must strive towards equal outcomes or equal opportunities. In the next two sections I discuss the impact of the concepts of liberty and equality for distributive justice. I find support for the difference principle in the priority view. Thereafter I discuss Sen' s capability approach as an elaboration of the priority view and finish with some observations on the welfare state. My conclusions follow in section 8.

2. Theories of distributive justice

Suppose we say that the motivation for being just is inspired by the idea of the long-term advantageousness to oneself of being just. Or, alternatively, suppose that the motivation for being just is the desire to act in ways that can be defended to oneself and to others without appealing to personal advantage. On the first argument, justice consists in playing one's part in mutually advantageous cooperative arrangements. In the second approach the motivation for being just is the desire to act in ways that can be defended impartially. People seek agreement on principles that nobody could reasonably reject. These two motivations are central in the distinction that Barry draws between the main approaches to justice: "justice as mutual advantage" and "justice as impartiality".

The idea of justice as mutual advantage is that the just outcome should represent for parties a gain over what they would have acquired without cooperation. The process of
determining a fair outcome has, therefore, to be split in two parts. There is a two-stage approach to reach an agreement. The first consists in establishing a nonagreement point. The other consists of a move to outcomes that are more efficient. There are two related, but distinct, ideas about the move from the nonagreement point to the Pareto frontier: reflections of relative bargaining power and preservation of relative positions, that is to say equal utility gain. The common element that unites the solution concepts is the notion of an equal gain over the nonagreement point.

The rationale of the Nash bargaining solution is that it reflects relative bargaining strength. A variant on the Nash solution is Gauthier's "splitting the difference". Gauthier takes at one extreme the most that each of the parties concerned could achieve with the utmost cooperation of the other parties and at the other end the nonagreement point. Both the Nash bargaining solution and Gauthier's solution take the gain in utility as that what is to be divided equally. The essence of justice as mutual advantage is that the rules are adhered to only to the extent that doing so will further the good.

The range of justice in the theory of Gauthier is considered to be very impoverished. The congenitally handicapped and defective fall outside its domain, because nobody can expect benefits in return for protecting them. They do not contribute to any 'surplus', and therefore are not entitled to take part in its division. Since their contribution is zero, their reward is equally zero. And thus, "justice as mutual advantage fails to do the one thing that we normally expect a conception of justice to do, and that is to provide some moral basis for the claims of the relative powerless and dependent." (Barry, 1996, 46) Besides this objection, Barry mentions two additional ones. First, it does not provide an adequate motive for compliance. Second, it necessarily encourages a constant struggle for positional advantage. Barry's judgment is "..that justice as mutual advantage is a radically defective theory." (Barry, ib., 33)
The basic idea of justice as impartiality can be expressed in a variety of ways. One is that we use the construction of an original position and ask the parties what outcome they would favor if they did not know what position they occupied. The other is, again using the construction of an original position, to ask parties to propose principles for the distribution of benefits and burdens that they think ought to be acceptable to everyone affected. The first approach comes down to the claim that, if something's being just is to count as a good reason for doing it, justice must show equal concern for the interests of all agents. In the other approach the motive to act justly should be the desire to conduct oneself in ways that can be defended to others in reasonable terms.

Barry classifies impartial theories of justice on the basis of two characteristics: a) what is the amount of information available (or, how thick is the veil of ignorance); b) are the actors pursuing their self-interest, or are they trying to reach a reasonable agreement. (Barry, 1989, 320) Barry argues that the role of the veil of ignorance is radically different in original positions defined by alternative motivations. When parties are assumed to be self-interested or not to take interest in one another's interests, a veil of ignorance is essential. But when they are assumed to be motivated by the desire to reach an agreement in reasonable terms, "a veil of ignorance is an optional feature - a heuristic device which can be resorted to on occasion, but does not have to be relied on to create solutions." (Barry, 1989, 331) The invocation of the veil of ignorance is simply a way of giving a claim of impartiality some dramatic force. On the basis of these characteristics, we can distinguish three variants of impartial theories of justice: the Harsanyian variant, the Rawlsian variant and the Scanlonian variant.

In both the Harsanyian and the Rawlsian variant people are assumed to be interested in their own well-being only. Both these variants, therefore, employ a veil of ignorance. In the Harsanyian variant a thin veil of ignorance is accompanied by a thick theory of the good. In this variant maximizing preference-satisfaction is the right thing to do.
The Scanlonian and the Rawlsian theories both seek to justify principles without imposing any specific conception of the good. The criterion for a justifiable principle is non-rejectability in a Scanlonian original position and the fundamental arguments for Rawls's principles have always been that they form the basis of agreement among people with different conceptions of the good. The difference, with respect to the relation between the good and the right, is that "for Rawls justice constrains the content of the good and in the Scanlonian version justice constrains the pursuit of the good." (Barry, 1996, 57) Another difference between Harsanyi's moral theory and the variants of Rawls and Scanlon is that the former is outcome oriented, while the other two are opportunity oriented. In Harsanyi's case the moral right rule for the division of scarce resources is that rule which would guarantee that average expected utility is maximized. An alternative is offered by the other two variants, which do not require that the division of scarce resources should be set up with an eye on maximizing average utility, but that the division of the resources itself should be fair and thus be an equal division.

Buchanan shares Barry's judgement about justice as mutual advantage. He even calls the distinction between justice as mutual advantage and justice as impartiality "a watershed in theorizing about distributive justice". (Buchanan, 1990, 252) Since justice as mutual advantage is deaf to injustice, by excluding persons from the class of subjects of distributive justice, while justice as impartiality is grounded in the principle of equal concern (Harsanyi), or in the moral equality of persons (Rawls), I will, in discussing inequality,

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394 In fact Buchanan talks about subject-centred theories of justice. This is not the same as justice as impartiality, because Buchanan does not assume that the principles of justice are the object of an agreement of any sort. Nevertheless there are many similarities with the theories of Rawls and Scanlon. He calls Rawls's theory a Kantian version of subject centred justice.
Rawls’s theory embodies a real concern with distributive policies, but Barry finds Rawls’s official argument for the difference principle unconvincing. The real basis for it, he suggests, is to be found in his view on inequality (in chapter 2 of his book) and not in his construction of the original position (chapter 3). But, then, why did he appeal to it? Barry thinks it is because Rawls makes the claim that once the original position has been fully specified; no further appeal to morally tinged notions is required. In contrast, Scanlon appeals to moral intuitions. Scanlon has advanced the idea that what is fundamental to morality is the desire for reasonable (informed, unforced) agreement. Thus, "contractualist morality relies on notions of what it would be reasonable to accept, or reasonable to reject,.." (Scanlon, 1982,113) In the Scanlonian variant the original position only has to embody the circumstances of impartiality. But impartiality is not guaranteed by means of the figure of an impartial observer, but by means of the requirement that there is a free debate about issues of social justice. This bears resemblance with an ideal discourse situation and it refers also to the public nature of moral rules. Thus, more weight is put on the coherence argument and less on the specific construction of the original position as a fair situation for deciding on principles. The plausibility of Rawls' arguments would be enhanced, Barry suggests, if he could argue that individuals with full knowledge of their situation accepted his principles, because they could not reasonably reject it whatever position they occupy.

Barry, moreover, believes that Rawls's principles would be easier and more persuasively defended by a direct appeal to moral arguments for liberty and equality. (Barry, 1989, 215)

A subsequent reason is that in the theory of justice as mutual advantage inequality as such is not really a matter of concern. Nozick argues that a discussion about distribution wrongly assumes that there is something to be distributed. Most goods, however, are not up for distribution or redistribution. These are goods to which particular people already have entitlements or special claims.
This direct approach could also be supported by the deeper theory Dworkin attributed to Rawls. The direct approach would start from the argument that practically all inequalities are the result of good and bad luck and are, therefore, morally arbitrary. This argument leads from equal opportunity to equal income and from there via the notion of Pareto improvement to inequality. The difference principle is based on the acceptance of the argument that strict equality may be waived when it is in everybody’s advantage to do so. This is reasonable. The difference principle requires that inequality be thus justified and simultaneously that efforts to reduce inequality are accepted when they can be defended. The arguments for reducing inequality can only be rejected when it can be shown that they are not reasonable. What would be unreasonable arguments in favour of reducing inequality? I will investigate this issue further in the discussion between ‘egalitarians’ and ‘prioritarians’.

Does Harsanyi’s theory of social choice support distributive policies? Not really. Of course utilitarians acknowledge the diminishing marginal utility of money, and recommend distributive policies but only when they conform to Pareto conditions. In general they do not favor that the state interferes in the voluntary transactions of citizens. The average principle symbolizes the freedom of choice against paternalism. We shall not judge Harsanyi’s ethical principles on the basis of a hypothetical choice either, but instead look for support for distributive policies in the conceptions of equality and liberty as practised in liberal individualism.

3. Egalitarian policies

Every moral theory has some conception of equal regard at its heart. Treating people with equal regard is looking at them from the moral point of view, seeing them as holding equal moral status. (Griffin, 1985) The thought that we ought all have equal ultimate well-being, as a matter of justice, is based on the conviction that we are all equally deserving, or equally
entitled to well-being. Cohen (1989) treats the various egalitarian proposals as equalisandum claims. These claims specify that which ought to be equalized, or what, that is, people should be rendered equal in. A strong kind of egalitarian principle is exemplified by: (Raz, 1986, 225)

1: ‘All F’s who do not have G have a right to G if some F’s have G’

The sensitivity of this principle to existing distributions is the crucial indication of its character as an egalitarian principle. Being an F by itself does not qualify one to G. It is the actual existing inequality of distribution that creates the entitlement. This kind of principle is the paradigmatic (strictly) egalitarian principle. They are omnipresent in the main line of egalitarian theories. Consider the following rule: “If some people are better off than others, then those who are less well off are entitled to the extra benefits necessary to bring them to the level of welfare enjoyed by the better off.” (Raz, 1986,230) This is a rather radical egalitarian claim.

Dworkin has evaluated egalitarian theories of distributive justice. He distinguished two categories of theories of distributional equality. The first, equality of welfare, holds that a distributional scheme treats people as equal when it distributes or transfers resources among them until no further transfer would leave them more equal in welfare. The second, equality of resources, holds that it treats them as equals when it distributes or transfers resources in such a way that no further transfer would leave their share of resources more equal. (Dworkin, 1981a; b)

An example of the equality of well-being is Arneson’s distributive subjectivism. Arneson combines a resource-based approach with a claim to equal well-being. He defends the claim that resources are to be distributed in such a way that

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396 "Equal desert or merit for welfare is what we need, (..) but considerations of desert have in general been pointed to as justifications for inequality rather than equality." (Narveson, 1984, 37/8)
each individual enjoys the same level of well-being. He claims that "for purposes of determining what should count as fair shares from the standpoint of distributive justice, the appropriate measure of a person’s resources is some function of the importance those resources have for that very person as weighted by her conception of her own welfare. (...)" (Arneson, 1990a, 159) He calls this claim distributive subjectivism. Arneson takes distributive subjectivism to be the rational kernel within classical utilitarianism. He restricts the discussion to self-interested preferences. But he does not take someone's actual preferences into consideration to establish his or her well-being. Instead he refers to hypothetically constructed preferences; preferences a person would have if he were engaged in extended deliberation about the preferences he or she should have did he or she possess perfect information.

A well-known objection to this proposal concerns the question of expensive preferences. For some philosophers the problem turns on the question whether these preferences were acquired in a substantially voluntary or involuntary way. (Cohen, 1993, 13) When a person gained the preferences by a chain of events for which he is in no way responsible, then equal opportunity for welfare demands compensation. Many persons, however, feel that it cannot be fair to grant more resources to those with expensive tastes even if they are in no way responsible for those tastes. They might allow special compensation for people with physical or psychological handicaps, but it would be perverse to compensate those who suffer from “preference handicaps”.

Arneson disagrees, "what good reasons could there be for treating involuntary expensive preferences due to handicaps differently than involuntary expensive preferences due to tastes? A subjectivist insists on parity of treatment." (Arneson, ib., 190) The alternative is the construction of a theory of a perfect flourishing life that could serve as a reference for a theory of distributive justice. The ‘do not compensate for expensive tastes’ intuition rests upon a conviction that mere preferences are distinguishable from true human needs.
Arneson thinks that this may prove to be illusory. It may "turn out that the only possible justification for discriminating in the treatment of physical handicaps and other expensive preferences is perfectionist knowledge of human good." (Arneson, ib., 194) 397

Dworkin argues that we have no reason to accept any of the versions of equality of welfare as a theory of distributional equality. Neither version can provide more than an idle or self-defeating principle of equality of distribution. He concludes that equality of welfare is not as coherent and attractive as it is often taken to be. We therefore have reasons to consider the alternative ideal of equality of resources.

No division of resources is an equal division if, once the division is complete, any person would prefer someone else's bundle of resources to his own bundle (the envy test). Equality of resources could require the design of a division of resources that compensates for physical and mental handicaps. The problem is to determine what handicaps are to be compensated and to what extent? When we take equal concern and equal respect as our point of departure, how should resources be divided to promote a good life? In order to answer this question Dworkin introduces a hypothetical

397 Arneson’s argument is intriguing because he connects distributive subjectivism with utilitarianism. The utilitarian rule is the average rule and though there is a connection with subjectivism, there is no link with individual utility, only total utility is relevant. The consequence is that if person A is a cripple and person B a lucky fellow and when person A gets half the utility that person B gets from the same amount of income, then utilitarian logic tells us that more income should be allocated to B than to A. This is a reversal of Arneson’s suggestion. Another characteristic of Arneson’s argument is that distributive subjectivism regards persons as mere containers of utility, as “passive carriers of desires”. This conflicts with a prioritarian view, which requires that in so far as there are conflicting claims it is an objective evaluation of these claims and not merely the strength of the subjective preferences that is relevant. One does not "compare how strongly the people in question feel about their preferences, (...) but rather inquire into the reasons for which these benefits [honouring claims] are considered desirable." (Scanlon, 1975, 660)
model of a voluntary exchange (an auction) and an insurance market. The starting point of the auction is that everyone has at his disposal a same initial amount of purchasing power. The auctioneer commands the resources on which everyone can bid. The auction is used as the true measure of whether particular persons command the resources he or she wants. The idea of an insurance market is available for those with expensive tastes or cravings.

Production and trade would disturb equality of resources, once established by the auction, and corrected to provide for handicaps. If people begin with equal resources, they may end, as a consequence of having different skills, with different incomes. That is why Dworkin suggests a periodic redistribution of resources through some form of income tax. (Dworkin, 1981 a/b) In Dworkin’s approach the egalitarian policy has been transformed from a right to equal welfare to a right to equal resources, complemented with an income tax.

The egalitarian theories of distributive justice of Arneson and Dworkin may be consistent elaborations of egalitarian principles, but both represent strong equalisandum claims. "A strong equalisandum claim is the claim that people should be as equal as possible in the dimension it specifies. A weak equalisandum claim says that people should be as equal as possible in some dimension but subject to whatever limitations need to be imposed in deference to other values. (..)". (Cohen, 1989, 908) What should be equalized and to what extent? How to draw the line? Consider the following rules of entitlements: (Raz, 1986, 220)

2: ‘All those who are equally F are entitled to equal G’
3: ‘All those who are equally F are equally entitled to G’

Claim 2 is a strong equalisandum claim; "all F's are entitled to, for instance, equal education". Claim 3 is a weak equalisandum claim; "all F's are equally entitled to education". The next sections show that strong equalisandum claims have little support in the liberal body of thought. Liberal policies directed to reduce inequalities only support the weak claim.
4. The value of liberty

What does it mean to interfere with one’s freedom? Do I always interfere with your freedom when I make it impossible for you to do what you want to do? Say you want to do x. In order to do this you need z. I have z. Am I interfering with your freedom to do x when I do not supply you with z? Surely not, Narveson thinks. We must distinguish between positive and negative freedom and between positive and negative rights: (Narveson, 1984, 51)

A has a negative freedom to do x = nobody prevents A’s doing x.

A has the positive freedom to do x = A has whatever is needed in order for A to do x.

A has the negative right to do x = no one may prevent A from doing x.

A has the positive right to do x = A must be provided with whatever A might need in order to do x, if A lacks it.

The liberal attitude is to take the negative definitions of rights and freedoms as guiding principles: the minimization of the interference with freedom and the denial of a right to be supported. No one has the duty to make another person’s life agreeable. From the perspective of liberal individualism we have to respect everyone’s autonomy, but we have no duty to provide resources to enlarge another’s potential to an autonomous life. Though on the liberal view individuals have no positive rights, we could still refer to the liberal equality principle that is, counting everyone for one. Though this principle ensures only equal regard or disregard, that is, neutrality, impartiality or indifference, it could be used to deliver an argument for a policy to enhance everyone’s opportunities. We could, for example, distinguish an equal right to happiness, from a right to equal happiness.

The ‘equal right to...’ formulation provides an argument for the justification of a compensatory policy based on the idea of “equal opportunity”. Which rule would follow from this? To answer this question we have to know which factors determine someone’s (material) success in life. Three factors
are usually mentioned (see Fleurbaey, 1995, 26):
1e the skills and assets that a person has acquired during lifetime;
2e the abilities and talents with which that person was born
3e the effort a person is prepared to spend.
Thus we can identify three factors: r (resources, the factors that government and institutions can directly control)), t (talents, biological and natural circumstances, irreducible social factors) and w (will, that represents everything for which the individual is responsible) that influence an individual’s ‘outcome’ H. The individual outcome can thus be written as: H (r, t, w).

A policy of equal opportunity seeks to compensate t differentials but not w. The cut between t and w can be defined as those factors that are outside the agent’s control whereas all the factors, for which the individual can be deemed morally responsible, because she fully controls them, belong to the w heading. The rule of the compensatory variant of distributive justice is the rule that resources are re-allocated in order to compensate for t differentials but not w.398

5. Equality or priority?

Parfit wondered whether it plausible to assign intrinsic value to equality. Were equality intrinsically valuable, then it would always be better to realize more equality. But he realized that we could have more equality in different ways, for instance by making everybody worse off. Suppose that the people in a community are either (a) equally well off, or (b) equally bad off. Parfit concludes that, "the principle of equality could not tell that (b) is worse". (Parfit, 2000, 84) A reduction of inequality by taking away from the better off in

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398 There is in liberal individualism no question of a compensation for r differentials. Compensatory resource-policy provides additional resources to guarantee equal chances to develop one’s talents and capacities given the existing resource differentials. In this way it implies an indirect transfer of resources.
society without improving the situation of the worse off cannot be good in any respect. "One situation cannot be better than another situation in any respect if there is no one for whom it is better in any respect." (Tungodden, 2003, 6) This is known as the levelling down objection.

Suppose that the concern for inequality conflicts with the concern for the worse off group. Do we have a special obligation to the worse off group? Consider the following alternative states: \( x = (2, 10, 100) \) and \( y = (1, 100, 100) \). (This example is borrowed from Tungodden, ib., 14). Many inequality measures would say that there is more inequality in \( x \) than in \( y \). Thus following the equality principle we would say that \( y \) is better than \( x \). When we now look at the position of the worst off group then \( x \) is better than \( y \), because the level of well-being of the worst off is better in \( x \) than in \( y \). If we should stick to the notion that \( y \) is more equal than \( x \), then we would have a conflict between equality promotion and the difference principle. 399

When it would be accepted that the goal of social justice is not to create complete equality, but to reduce inequality by protecting the worse off group, then we switch from the egalitarian rule to priority view. The priority view says: "benefiting people matters more the worse off these people are." (Parfit, 2000, 100) The most fundamental concern in distributive justice is the question how much priority to assign to the worse off. Philosophers like Frankfurt have argued that an absolute threshold is all that matters in distributive reasoning. "If everyone had enough, it would be of no moral consequence whether some had more than others." (Franfurt, 1987, 21)

The principle of equality is a relative notion, whereas prioritarianism is related to the familiar idea that there is an

399 Utilitarians would choose \( y \) because the sum of utilities is higher than in \( x \). Applying the difference rule would make the position of the middle group worse. To prevent that the difference principle would improve the situation of the worse off group to the detriment of the second worse off group it could be considered to introduce a threshold.
absolute as opposed to a relative notion of poverty and that persons who find themselves in need possess a very important moral claim to be helped. An absolute threshold "represents a level of well-being where there is a fundamental change in moral significance of people's claims in a distributonal conflict." (Tungodden, ib., 27)

Egalitarians believe that it is bad for some to be worse off than others through no fault or choice of their own. They reject the claim that once people are sufficiently well-off there is no reason to give priority to a worse-off person. "Considerations of fairness do not lose their force simply because someone is sufficiently well-off." (Temkin, 2003, 65)

Egalitarians are concerned with relativities. On the priority view, we are only concerned with absolute levels. Parfit argues, "what is bad is not that these people are worse off than others. It is rather that they are worse off than they might have been." (Parfit, 2000, 104)

How does the difference principle fit into this controversy between egalitarians and prioritarians? Rawls's problem was how one could accept (economic) inequality in a world where all persons are (morally) equal. He did not think that natural inequality was bad or unjust, but that it is morally arbitrary. He thought that inequality could be defended when it could be shown that it benefited the worst off. Inequality is unjust only if it harms the worst off people. He argued for equality by referring to the arbitrariness of the natural lottery and then he allows departures from equality provided that these are not worse for those who are worst-off. Parfit thinks, "Rawls's

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400 Raz has put the difference well. He writes: “…what makes us care about various inequalities is not the inequality but the concern identified by the underlying principle. It is the hunger of the hungry, the need of the needy, the suffering of the ill, and so on. The fact that they are worse off in the relevant respect than their neighbours is relevant. But it is relevant not as an independent evil of inequality. Its relevance is showing that their hunger is greater, their need more pressing, their suffering more hurtful, and therefore our concern for the hungry, the needy, the suffering, and not our concern for equality, makes us give them priority.” (Raz, 1986, 240)
view is not merely compatible with the Priority View. Given his main argument, it must be, in its content a version of this view, since it must be concerned with absolute not relative levels. (Parfit, ib., 120/1) This is compatible with policies for equal opportunities.

6. Commodities and capabilities

In this section I shall develop a view of a policy for distributive justice that is based on the prioritarian point of view. This view pushes us away from subjective considerations in the direction of more objective ones.

Considerations for the worse-off brings the (minimum) standard of living to the fore and, thus, automatically commodity possession. But the variations of nourishment vis-à-vis food intake are influenced by a variety of physiological, medical, climatic and social factors. Commodities are no more than means to ends.

Sen has similar objections to the concept of primary goods as he has to the concept of a standard of living. If people were basically very similar an index of primary goods might be quite a good way for assessing individual welfare. He pleaded for a metric of well-being that measures something falling between primary goods and utility. The standard of living is identified with what goods do to (or for) human beings, in abstraction from the utility they confer on them. But in fact people have very different needs varying with work, health, housing etc. "The focus on basic capabilities can

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401 It could be argued that Rawls's difference principle is egalitarian because it contains references to relativities (people are worse-off in comparison to people who are better-off) but since Rawls does not attach value to equality as such the difference principle does not satisfy the criterions of egalitarianism.

402 When we focus on utilities, then the usual question is not how much nourishment a person gets from food, but how much utility, which is a matter of mental reaction he derives from nourishment. This is also the case when the utility is derived from being in the state of affairs in which one has received food.
be seen as a natural extension of Rawls’s concern with primary goods, shifting attention from goods as such to what goods do for human beings." (Sen, 1987c (1979), 160/1)

Ultimately, the focus has to be on the kind of life people lead and what they can or cannot do, can or cannot be. "If it is accepted that the standard of living is basically concerned with the kind of lives people do lead or can lead, then this must suggest that ‘basic needs’ should be formulated in line with functionings and capabilities." (Sen, 1987b, 25) "A functioning is an achievement, whereas a capability is the ability to achieve. Functionings are, in a sense, more directed to living conditions, since they are different aspects of living."

(Sen, ib., 36) Some of these functionings concern an activity (as having a meal), others concern a state (being nourished). Sometimes an economic aspect is dominant (exchange), sometimes it is secondary (charity). Sometimes it is strictly personal (enjoying music), sometimes it is not (taking care of children). "Capabilities, in contrast, are notions of freedom, in the positive sense: what real opportunities you have regarding the life you may lead." (Sen, ib., 36) Given the close connection of functionings with actual life, it might seem reasonable to concentrate on functionings rather than capabilities in evaluating the living standard. This is, Sen believes, to a great extent right. "The approach is based on a view of living as a combination of various 'doings and beings', with quality of life to be assessed in terms of the capability to achieve valuable functionings". (Sen, 1993a, 31)

But it is not completely right. When one thinks about capabilities, one normally thinks about a person's physical and mental abilities, his/her skills, qualifications and experiences. But in his theoretical work, Sen's treatment of capabilities is never in terms of skills and abilities, but always in terms of the set of alternative achievements from which he or she can choose. Sen sees any given set of options as being valuable in two different ways: the first, relating to the value which may be attached to the act of choice itself and the second relating to the range and diversity of the options in the choice set.
The concept of capabilities is sometimes misunderstood. Cohen, for instance, thinks that to call what goods do to human beings a 'capability' was a mistake. "What goods do to people is identical neither with what people are able to do with them nor what they actually do with them." (Cohen, 1993, 19) Goods can cause desirable states directly, without any exercise of capability on the part of those who benefit from these goods. People can be freed from malaria by some pesticide without having done this themselves. Cohen concludes that the functioning/capability language unnecessarily narrows what goods do for people. Cohen is a victim of the connotation of the concept 'capability' with abilities, qualifications and so on. In reply, Sen, once again, stipulated, "that the fact that a person has the freedom to enjoy a malaria-free life might be entirely due to the actions of others. (...) But that does not compromise the fact that he can indeed have a malaria-free life and has the capability to achieve such a life." (Sen, 1993a, 45) We have the capability to lead a malaria-free life whether or not we ourselves or other persons have gone around exterminating the malaria-causing insects. Thus the state, for example, could enhance the capability of people and thereby improve their well-being.

The comment of Pettit on the capability approach is quite different. Pettit thinks that the combination of capability and freedom puts some demands on the nature of the choices people exercise. Functioning capability not only requires resources but also autonomy or personal sovereignty in personal matters. Therefore, there are two demands to put on the exercising of choice. First, for a person to be free he must be assured of getting whatever he is disposed to choose. When he has to choose between A and B, it is not enough that he gets A when he prefers A, he must also get B when he prefers B. His choice-disposition must be content-independently decisive. (Pettit, 2001, 5) Second, the fulfilment of his preferences must not be dependent on the good will of those around him. Someone could enjoy all kinds of privileges and sees favored preferences fulfilled but nevertheless lives in a position of total subjugation to another.
Thus, there is no free choice unless the preference is context-independent decisive. (Pettit, ib., 6) Pettit falls back on the older, republican, tradition of freedom in which freedom is not equated with the absence of interference, but in which someone is unfree so far as he or she lives in the power of a master. Republican freedom requires not just the absence of interference but also the absence of domination. Sen's theory of capability and freedom aspires, Pettit claims, not just "to get rid of destitution, but also of dependency". (Pettit, ib., 19)

Sen, though sympathetic towards Pettit's view, nevertheless disagrees. He thinks that we need both the capability approach and the republican approach and that by interweaving them, we would be one distinction short. "For they concentrate on different aspects of freedom and each has importance. Consider a person A, who is disabled, and look to three scenarios:

A. she is not helped by others and she is therefore unable to leave her home;
B. she is helped by volunteers and can leave her home whenever she wants;
C. she has servants whom she pays and commands, and she can leave home whenever she wants." (Sen, 2001, 54)

For the capability approach the important contrast is between A on the one hand and B and C on the other. The republican view would see her as unfree in both the cases A and B, Sen believes. He adds one more point, because he thinks that Pettit is also bothered by the possibility of 'preference adjustment' (adjusting your preferences so that they conform to what you are offered) if context-independence is not demanded. But Sen believes that by demanding that preferences be critically scrutinized, we can go beyond what preference a person happens to have and consider the reasons underlying the preference. The basis of the capability analysis is intended to be a person's reflected valuation,

\footnote{I doubt that this is correct; in neither the cases A and B can we say that other persons dominate the person. Only in case A her freedom of action is constrained.}
rather than the preferences he just happens to have. "The challenging part of the claim in favour of the capability approach lies in what it denies. It differs from the utility-based approaches in not insisting that value captures only happiness or desire-fulfilment. It differs from non-utilitarian approaches in not placing among value-objects primary goods as such or resources as such (but both only to the extent that they promote capabilities)." (Sen, 1993a, 40) A modest objective is to enlarge the freedom to achieve among the worst-off. One could argue that after providing means to relieve elementary deprivation, the promotion of certain ‘basic capabilities’ among the worst-off should have priority.404

Poverty, however, is not just a matter of money and private resources. The lack of basic public provisions - water, electricity, sanitary facilities, health, education- or the lack of access to these provisions is equally an aspect of poverty. The well-to-do usually have access to these public provisions, even in underdeveloped countries, but the poor scarcely have. The public provision of these facilities or the improvement of access to these facilities is a basic aspect of any capability-enhancing programme.

7. Social welfare

The welfare state combines policies for equal opportunity with egalitarian objectives (progressive income taxes, for

404 In his more recent writings on human rights, Sen has set aside some of his earlier classifications of freedom and settled on a taxonomy based on the distinction between opportunities and processes. The opportunity aspect of freedom concerns the opportunity to achieve things we have reason to value, and the process aspect relates to the importance attached to the process of autonomous choice and to fair procedures. "While the capability concept has considerable merit in the assessment of the opportunity aspect of freedom, it cannot possibly deal adequately with the process aspect of freedom. (...) It falls short of telling us about the fairness and equity of the processes involved, or about the freedom of citizens to invoke and utilize procedures that are equitable." (Sen, 2004, 336)
instance). The roots of the welfare state can be traced back to the “Poor Laws”. The "Poor Laws" were complemented with private arrangements for mutual aid and both were replaced by arrangements for social security that were insurance-based schemes. But some risks cannot be insured and private charity or the state had to take responsibility. Though much has changed (from charity to rights), much has remained the same (the constraints on the drawing of rights).

In the ‘welfare states’ the discussion is centred on two questions: who is eligible for provisions and who should take the responsibility for providing these social services. The major objection of liberal politicians is not providing benefits for the poor; rather it is to their depending on them. A generous social welfare provision encourages a “dependency culture”, wherein people come to rely on state support rather than on their own efforts. The alternative is couched in terms of ‘self-reliance’. Therefore, there has always been a discussion about the question who is to blame or who is responsible for the unfortunate position someone finds himself in. Who deserve assistance and who do not deserve? The other discussion concerns the role of the state. Should the state provide social services or should private associations for mutual aid or charity take care of them.

In search for an answer, Goodin suggests that we start with the notion of “moral collectivism”. By that he means the "collectivization of responsibility for each other’s well-being. Collectivization of responsibility here means primarily the sharing of responsibility." (Goodin, 1998, 146) A collective responsibility in this sense is one that is distributed to each and every member of the group of individuals sharing it: the same responsibility falls to each and every one of them. Usually, the collectivization of responsibility will start with a voluntarily mutual responsibility and then develop into a system of political system of collectivization. Historically we moved from compensation models that were based on fault and blame towards insurance-based schemes. They are all forms of risk-pooling strategies.
The risk-pooling logic that underlies voluntary, i.e., private, schemes of social insurance, is predicated upon the risks in question being statistically independent events. But the risk to get unemployed, for instance, is interdependent. Unemployment is not an insurable risk in the private market for precisely that reason. The lesson in terms of ‘personal’ versus ‘collective’ responsibility for welfare is that the best way for individuals to provide for their own future welfare is by collectively pooling risks, through some sort of mutual insurance. And where risks are shared simultaneously, when they rise and fall for all engaged, then the same prudential considerations recommend compulsory state insurance. (Goodin, 1998) Historically no country has managed to improve the welfare of its citizens without involvement of the government; this concerns especially basic public provisions (see De Swaan, 1988), but also arrangements for social security.

The welfare state combines policies for direct support to the worse-off, with compensatory programs to promote equal opportunity and egalitarian income policies whenever tax rates are progressive. However, it has been the middle class that became the greatest net beneficiary from these provisions. And though the position of the worse-off has improved considerably in the western democracies, inequality did not disappear. In fact it increased the last decades to an un-dreamed extent.405

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405 “The rise of top income shares is due not to revival of top capital incomes, but rather to the very large increases in top executive compensation.” (Piketty and Saez, 2006, 204) It is reported that the average top manager in the USA now earns an income that is 1000 times the income of the average American, while in the seventies of the former century this was a magnitude of 39 times the lowest income. (source: The Economist, June 28-juli 4, 2003; special 160th anniversary issue, Capitalism and Democracy). More recently an American hedgefund manager, James Simons of Renaissance Technologies Corporation earned in 2006 a yearly salary of 1,7 billion. This is more than 38.000 times the average income of an American citizen. (Source: Heleen Mees, "Shareholdersfetishism", in NRC/Handelsblad, the fourth of May, 2007)
8. Conclusion

The search for rules of distributive justice has shown that programs for poor relief and compensatory policies are consistent with liberalism as a political doctrine. Strict egalitarian policies do not find support.

Three major issues have dominated the discourse on policies against poverty: the categorization of the poor (e.g., the deserving versus the undeserving poor); the impact of poor relief on work motivation, labour supply and family life; and the limits of social obligations. The greatest worry has been the erosion of the work motivation and its effects on family life, social disorder and youth problems. (see Katz, 1989) The government ‘s responsibility for the fate of the poor rests on the responsibility assigned to the state, not on the rights of individuals.

Many of those who advocate privatized, personal solutions, in preference to collectivized, public ones, do so out of a frank abhorrence of politics as such. They view politics as essentially a ritualized distributional struggle, and they take it for granted that all those efforts devoted to redistributing resources from one to another could better be devoted to producing more resources for each one.

Following Korsgaard, I distinguish three kinds of liberal doctrines. (see Korsgaard, 1993) One kind is libertarianism. According to this view the business of the state is to protect and preserve rights and freedoms, not to facilitate the pursuit of a good life. If the only thing a state needs to guarantee is your freedom and the life you live is your own responsibility, then there will be no incentive for the state to guarantee goods like medical care, food, a minimum wage etc. This kind of theory does not promote welfare provisions; it doesn't even recommend some kind of prioritarianism. There is only a dim awareness of a public cause that is worth serving and one may even wonder whether there is a public morality that can buttress society. Nozick and Gauthier represent libertarianism.
The second liberal doctrine is influenced by utilitarianism. It is the old-liberal view. It says that the purpose of the state is to enable citizens to achieve a good life, but it stipulates that there is not just one established conception of the good life. It is important that each person chooses, constructs, and pursues her own conception of the good. There are a number of reasons why one might hold this view. One reason is scepticism: we cannot prove that there is just one conception of a good life. What this view rejects is the idea that the direct realization of final goals is qualified as a political goal. But the state may provide all-means resources to enhance equal opportunities. The old-liberals also accept some interference of the government to realize public goods whenever it can be shown that the expected benefits exceed the expected costs and a potential Pareto improvement, on the long run, is realized. Whereas the libertarians want a minimal state, these old libertarians do not shy away from a minimal welfare state. Harsanyi represents this doctrine.

The new liberals or republicans show a moral concern for the worse-off, which is an expression of their devotion to the principle of (moral) equality, which is undermined by their even stronger devotion to liberty. Therefore they demand collective safe-quards for the worse-off. This safeguard should be provided by the state. The general idea behind this view is that unless resources and opportunities are provided, and welfare conditions in general are met, we cannot seriously claim that society is preserving and protecting everyone's freedom. They are represented by the Rawlsian doctrine that endorses the idea of a collective moral responsibility.

We see that distributive justice does not conflict with the main stream of liberal thought. The defenders of a modest welfare state usually refer to rational considerations (De Swaan, 1988), while only republicans - as I have defined them - refer to moral considerations.