IS THE WELFARE STATE JUSTIFIED?

Daniel Shapiro

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Is the Welfare State Justified?

In this book, Daniel Shapiro argues that the dominant positions in contemporary political philosophy – egalitarianism, positive-rights theory, communitarianism, and many forms of liberalism – should converge in a rejection of central welfare-state institutions. He examines how major welfare institutions, such as government-financed and -administered retirement pensions, national health insurance, and programs for the needy, actually work. Comparing them to compulsory private insurance and private charities, Shapiro argues that the dominant perspectives in political philosophy mistakenly think that their principles support the welfare state. Instead, egalitarians, positive-rights theorists, communitarians, and liberals have misunderstood the implications of their own principles, which support more market-based or libertarian institutional conclusions than they may realize. Shapiro's book is unique in its combination of political philosophy with social science. Its focus is not limited to any particular country; rather it examines welfare states in affluent democracies and their market alternatives.

Daniel Shapiro is associate professor of philosophy at West Virginia University. A specialist in political philosophy and public policy, he has published in *Public Affairs Quarterly*, *Social Philosophy and Policy*, *Journal of Political Philosophy*, and *Law and Philosophy*. In the spring of 2003, he was a Distinguished Visiting Humphrey Lecturer at the University of Waterloo.

Dedicated to all academic supporters of the welfare state.
And, of course, to Kathy, Genevieve, Brandi, Peter, and Kirsten.

Is the Welfare State Justified?

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Contents

Preface *page* vii

1 Introduction 1
- *1.1 Justification in Political Philosophy* 2
- *1.2 Internal Versus External Arguments* 8
- *1.3 Clarifying the Institutional Alternatives* 10
- *1.4 Coming Attractions* 15

2 Central Perspectives in Political Philosophy 16
- *2.1 Justice, Equality, and Fairness* 17
- *2.2 Basic Rights, Liberty, and Well-Being* 25
- *2.3 Community and Solidarity* 28
- *2.4 Public Justification and Epistemic Accessibility* 32

3 Health Insurance, Part I 35
- *3.1 The Topic's Importance* 35
- *3.2 The Institutional Alternatives* 36
- *3.3 Egalitarianism and NHI* 58
- *3.4 Risks and Choices: Egalitarian Reasons for MHI* 67
- *3.5 Rationing, Visibility, and Egalitarian Outcomes: Why Market Allocation Is Better* 81
- *3.6 Why the Priority View Agrees with the Egalitarian Support of MHI* 106

Appendix A: Addiction, Health Risks, and Voluntariness 112

4 Health Insurance, Part II 115
- *4.1 Basic Rights and the Right to Health Care* 115
- *4.2 Health Care and Communitarianism* 133

4.3 Public Justification, Information, and Rationing 145
4.4 Conclusion: The Reasons for MHI's Superiority 148

5 Old-Age or Retirement Pensions 151
5.1 Introduction 151
5.2 The Institutional Alternatives 152
5.3 Egalitarianism, Fairness, and Retirement Pensions 169
5.4 Positive Rights and Security 177
5.5 Community, Solidarity, and Pension Systems 184
5.6 Public Justification, Epistemic Accessibility, and the Superiority of Private Pension 190
5.7 Conclusion 193

Appendix B: Comparing PAYGO's Rate of Return with a CPP System 194

6 Welfare or Means-Tested Benefits, Part I 198
6.1 Introduction 198
6.2 Different Kinds of State Welfare 199
6.3 Nongovernmental Aid 201
6.4 Egalitarianism and Welfare-State Redistribution 204
6.5 Why Prioritarianism Agrees with Egalitarianism about Welfare Policy 232
6.6 Will Private Charity Be Enough? 233

Appendix C: Mutual-Aid or Friendly Societies 241

7 Welfare or Means-Tested Benefits, Part II 243
7.1 The Right to Welfare 243
7.2 Communitarianism and Welfare 266
7.3 Public Justification, Epistemic Accessibility, and Welfare 274
7.4 Conclusion: The Uncertain Choice between State and Private Conditional Aid 276

8 Conclusion 280
8.1 Introduction 280
8.2 The Problems with SS and the Transition Problem 282
8.3 The Cato Plan 286
8.4 The Brookings Plan 289
8.5 Comparing the Two Plans 292
8.6 Where Things Stand 296

Select Bibliography 299
Index 311

Preface

In the last dozen years or so, my philosophical writings have had two main themes: (1) political philosophers who have different philosophical principles actually are closer on institutional matters than they realize and (2) one cannot really make a sound or decisive argument for institutional change unless one has made a comparative institutional analysis of different, feasible alternative institutions. I think this view originated, in part, in my late teenage years, when I changed from what would be roughly described as a liberal view – in the modern American sense of the term, wherein one favors individual freedom and distrusts the government on "personal" or on civil liberties matters but favors a vigorous role for the government in restricting or regulating free markets and providing for the unfortunate – to a libertarian view that the government's sole role should be to protect the right to life, liberty, and property and keep its hands off the free market, which operates just fine if the government gets out of the way. When I looked back at this change, I thought that in one sense I had not changed at all. Once I realized how free markets really worked, and how government programs that were supposed to realize their seemingly compassionate or just goals didn't really do so, I realized that the attitude of distrust I had toward government power or the view I had about the value of individual freedom really applied to economic as well as personal matters. So at some level I came to think that my liberal friends who disagreed with me – and when I became an academic most of my fellow academics who opposed libertarianism – could come to agree with

me, if they would just understand how free markets really work and how government programs, specifically welfare-state programs, really work (or don't work). Thus, in an embryonic form, I had the view that people with seemingly different philosophical principles actually could converge on institutional matters.

So I began to write articles such as "Why Rawlsian Liberals Should Support Free Market Capitalism" (*Journal of Political Philosophy* 3, March 1995), in which I argued that those who followed John Rawls's philosophical framework, which apparently opposed libertarianism, could actually, following their own principles, end up with more libertarian institutional conclusions than they realized. Perhaps this just represented a temperament of optimism – even if we disagreed about philosophical principles, we could come to agree on institutional matters if we could incorporate social theory or social science about how alternative institutions worked (or didn't) – but it also, I suspect, grew out of a frustration that during decades of philosophical disagreements about basic principles few minds were changed and the realization that many of my students' complaints about political philosophy – "they don't focus on the real world!" – had a point. You couldn't, I came to realize, after reading the writings of N. Scott Arnold (e.g., *Marx's Radical Critique of Capitalist Society*, Oxford University Press, 1990) and David Schmidtz (e.g., *Social Welfare and Individual Responsibility: For and Against*, Cambridge University Press, 1998), really make a sound argument for institutional change without doing social science, that is, without showing that there was some feasible alternative institution that could actually get rid of the injustice that was supposedly present in an existing institution. I owe Scott and David an enormous debt for the clarity and insight of their books and for their friendship and guidance over many years and their helpful criticism of earlier versions of this book. (I owe Scott a particular debt, as he read the entire manuscript and made detailed comments.) I also want to thank Christopher Morris and Eric Mack for their friendship and philosophical guidance over the years, and for comments on earlier parts of the manuscript. In addition, Jeffrey Friedman's journal, *Critical Review*, constantly stressed the need for political philosophers to look at how institutions really functioned, and I want to thank him for that journal as it also influenced my approach to political philosophy.

This book came about, in a way, almost by accident. In the spring of 1995 I was looking for some external support during an upcoming sabbatical year to write some articles that the welfare state is not, by the standards used in mainstream political philosophy, just or fair, and I contacted Jeffrey Paul of the Social Philosophy and Policy Center at Bowling Green State University and asked him who might support such a project. He invited me to spend a year at the Policy Center, and the idea of writing articles turned into this book, which, in a nutshell, argues that the dominant nonlibertarian philosophical principles prevalent in contemporary political philosophy provide good reasons for supporting a change from present welfare-state institutions to feasible market alternatives. I want to thank Jeffrey Paul, Ellen Paul, and Fred Miller, who all run the Policy Center, for providing such a congenial and supportive place to work and for supporting my book throughout the many years it has taken to complete it. They provided financial support during my sabbatical year (1995–6), but also during the last phase of the writing in the spring of 2006. In addition, they gave me the opportunity to present earlier versions of some of the chapters at three of their conferences. At a conference on "The Welfare State Reconsidered," I presented an early version of Chapter 5, later published as "Can Old Age Insurance Be Justified?" (*Social Philosophy and Policy* 14, Spring 1997). At a conference on "New Directions in Libertarian Thought," I presented an early version of Chapter 3, later published as "Why Even Egalitarians Should Support Market Health Insurance" (*Social Philosophy and Policy* 15, Spring 1998). At a conference on "Should Differences in Income and Wealth Matter?" I presented an early version of Chapter 6, later published as "Egalitarianism and Welfare State Redistribution" (*Social Philosophy and Policy* 19, Winter 2002). And last, but not least, Ellen Paul provided invaluable editing suggestions during the final phase of completion of this manuscript.

Other institutions and persons gave me financial support and the opportunity to present my work and arguments, and I want to thank them as well. The Earhart Foundation of Ann Arbor, Michigan, gave me support during the fall of 1998, which enabled me to do additional work on my chapters on health insurance and retirement pensions. In the fall of 1998, Peter Boettke of the economics department of George Mason University invited me to give a talk on health insurance, which

enabled me to find out if my work was economically literate. Gerald Gaus invited me to present "Communitarianism and Social Security" to the International Economics and Philosophy Society in the summer of 1998, which was later incorporated into my chapter on retirement pensions. Michael Tanner of the Cato Institute invited me to a debate on Social Security in the fall of 1998, which led to a publication for the Cato Institute ("The Moral Case for Social Security Privatization," *The Cato Project on Social Security Privatization* 14) that gave me my fifteen minutes of fame until the news of President Clinton's impeachment focused the media's attention elsewhere. In the spring of 2003, during another sabbatical, Jan Narveson of the University of Waterloo invited me to a give a series of talks that enabled me to get most of the chapters of this book closer to their present form. (Most of the statistics or empirical information in the book stem from that period of spring 2003, although the last chapter has information on the financial ills of the U.S. Social Security system that applies through the year 2005.) Then, in the spring of 2005, in what I thought was icing on the cake, I was given the chance to present a synopsis of the main arguments in the book, in a paper entitled "Egalitarianism and Libertarianism: Closer than You Might Think" at the Association for Private Enterprise Education and at the World Congress of Philosophy of Law and Social Philosophy in Granada, Spain, where I presented my arguments to an international audience.

I thought at the time, "The book is just about finished. It has been accepted by Cambridge University Press, and I will finish it up in the fall of 2005 and be done." But life has a way of surprising you, and now, to use the commentator Paul Harvey's phrase, here is the rest of the story.

I fell seriously ill in July 2005. It has become a cliché in prefaces to thank one's spouse and family. In this case, the word *thanks* is so inadequate that words fail me. Without the support, love, and encouragement of my wife Kathy, I would not have made it. She helped me when I fell ill, got better, fell ill again, and then made what we hope is the start of a complete recovery. My daughter, Genevieve, who is now fifteen, handled her father's illness with aplomb and a maturity far beyond her years. My mother has been incredibly generous and supportive, and my brother, Mark, has been a source of support and comfort and superlative long-distance diagnoses. I also want to

thank a long list of health-care providers who helped me during this period: Nicole Gauthier-Schatz, Raymond Hearn, Ryan Kurczak, Terra McColley, Terry Miller, Erika Pallie, Jim Slaymaker, the late Kimberly Stearns, Michael Todt, and Jacob Teitelbaum and his assistants Cheryl Alberto and Denise Haire. And during this period I was also fortunate enough to have an empathic and understanding chair of my department, Sharon Ryan.

Finally, during the last six weeks of writing this manuscript, two research assistants, Nikolai Wenzel and Diogo Costa, helped me with some of the economics and technical matters necessary to write the last chapter about a just transition from Social Security to a private-pension system. (Michael Tanner of the Cato Institute complemented their work by patiently answering a barrage of e-mails about these matters.) Their assistance greatly improved the final chapter. My brother- and sister-in-law, John Pepple and Sarah Blick, helped with the bibliography, and my wife Kathy again stepped in and provided final editing advice and assistance.

I am truly grateful to all the people and institutions mentioned in the preceding text.

1

Introduction

Suppose justice requires reducing or minimizing certain inequalities, those that arise through no choice or fault of one's own. Or suppose that justice requires providing everyone, particularly the most vulnerable, with guarantees that the most basic goods needed to lead a decent and secure life will be provided. Or suppose a good or just society will reinforce or sustain a sense of community or solidarity among all members of society. Then on all of these views of a just or good society, it seems to follow straightaway that we should support government-financed and -administered health insurance, retirement pensions, and various government programs for the poor and needy. This seems to be the consensus among contemporary political philosophers. The aim of this book is to argue that this consensus is mistaken. According to the principles and values that are central in contemporary political philosophy, welfare-state institutions fail to be justified when compared with viable, more market-based alternatives – specifically, private compulsory insurance and private charities. Private compulsory insurance means the state requires all citizens to purchase insurance, and supplies a safety net, but otherwise leaves insurance to the market. Private charities are voluntary organizations devoted to helping the poor or the unfortunate. I will argue that private compulsory insurance is clearly superior to government-financed and -funded insurance, when judged by the standards prominent in contemporary political philosophy, and that private charities are superior to some government programs for the poor and no worse than others. If the welfare state is composed of government-provided insurance and aid

for the poor, then, taken as a whole, the welfare state is unjustified when compared with market alternatives. If the welfare state is broader than government-provided insurance and aid to the poor, then the argument of this book is that major welfare-state institutions are unjustified when compared with market alternatives.

My arguments in this book are different from most of the debates about the welfare state that have occurred in (close to) the last thirty years in contemporary political philosophy. Many of those debates concern disputes about relatively abstract political values or principles. So, for example, libertarians argue that basic political principles should focus on individual liberty, while egalitarians argue for a principle of equality or fairness. Liberals say that the basic unit of political concern is the individual; communitarians say that it is the community. By contrast, I bypass these debates. In this book, I do not challenge or criticize any basic political principle or value. Instead, I work within them, so to speak, and show that the dominant mainstream views should converge on supporting some market alternatives to the welfare state and not opposing other market alternatives to the welfare state. (Because libertarianism supports market alternatives to the welfare state, another way of putting this is that I show the dominant mainstream, nonlibertarian political principles have institutional implications that are more free market or libertarian than they realize.) This difference explains, in part, my disagreement with the consensus in mainstream contemporary political philosophy in favor of the welfare state. That consensus consists of people who disagree among themselves about which basic political values or principles are true or most plausible but agree that all or almost all of the institutional implications of these principles point to supporting the welfare state.[1] In this book I take no stand on disputes about basic political principles or values but argue that, whatever these principles, the institutional implications of mainstream principles point against the welfare state.

1.1 Justification in Political Philosophy

Another way to mark out the differences between my view that the welfare state is unjustified and the consensus in mainstream political philosophy that it is justified is to show that we have different

[1] Because libertarianism opposes the welfare state, from now on when I say "consensus" or "mainstream" view I exclude libertarianism.

understandings of justification. Justification in political philosophy is largely a matter of presenting the best arguments for certain normative claims when the focus is disagreement about the best or most plausible basic political values or principles. Empirical and social scientific questions about the way institutions work (or don't work) thus come to be seen as separate matters. Of course, because political principles or goals can only be instantiated or achieved by some kind of institutional arrangements, institutional questions are always relevant, but they do not take the foreground on this way of understanding justification in political philosophy. Another way to put this point is that for most political philosophers the object of justification – what gets justified – are principles or values, whereas on the model presented in this book, the object of justification is institutions.

In one sense, this model of justification is satisfactory. Political philosophy obviously is concerned with fundamental normative questions about the just or good society. A problem arises, however, when political philosophers use normative arguments as reasons for changing institutions, as it is not uncommon for them to do. After all, principles of justice or basic political goals are meant to establish the standards by which we should judge a political order, and if present institutions fail to meet these standards, then criticism of the existing order naturally follows straightaway.[2] From that criticism the claim that we should act to abolish or alter the institution also seems to follow straightaway. However, it does not. Identifying a very bad or unjust feature of an institution, even an essential feature of that institution, gives one no conclusive or sufficient reason to abolish or reform it, because the reformed or new institution may be no better. A joke illustrates the problem. A Roman Emperor asked to hear the best singers in his kingdom. The finalists were narrowed down to two. The emperor heard the first one, was unimpressed, and promptly announced that the award goes to the other finalist, because the next singer must be better than the first one. Of course, that's wrong: the second one could be no better or worse. The emperor needs to hear both singers to make a proper judgment.[3]

[2] Of course, principles can also be used to support institutions, but the points I wish to make here are more obvious when I focus on the principles' critical function.

[3] Peter J. Boettke, "James M. Buchanan and the Rebirth of Political Economy," in *Against the Grain: Economic Dissent in the 20th Century*, Steve Pressman and Ric Holts, eds. (Brookfield, VT: Edgar Elgar, 1997), 9–10.

This fallacy – call it the *nirvana fallacy*[4] – teaches us an important lesson. If political philosophy aims to give us good reasons to change or abolish an institution, it cannot limit itself to normative theory or arguments. Normative arguments by themselves only provide us with reasons to believe that a certain feature of an institution is unjust or seriously defective. Without some social-science arguments that there is some institution that will lack or lessen the injustice or social evil, we have no reason, or at least no particularly weighty reason, to abolish or alter the institution.[5] The injustice or evil could be a necessary evil. It could be a sad truth about human affairs that we are stuck with that evil or injustice.

Few philosophers explicitly commit the nirvana fallacy, although it does occur.[6] Most philosophers mention, at least implicitly, some kind of alternative institution that is supposed to lessen or get rid of the injustice or social evil. However, for these arguments to succeed the argument for an institutional alternative must specify what mechanisms or processes are likely to bring about the proposed change. Failure to specify how alternative institutional mechanisms or processes are likely to achieve justice or lessen present-day injustice is, unfortunately, a common problem in political philosophy, particularly in arguments that welfare-state institutions are needed to overcome injustices caused or embodied by markets. For example, John Rawls in *A Theory*

[4] The term comes from Harold Demsetz, "Information and Efficiency: Another Viewpoint," *Journal of Law and Economics* 12 (1969): 1–22.

[5] Someone might argue that X is not an injustice unless there is a feasible institutional alternative that would lack or lessen X. Perhaps that is correct. If it is correct, my point can be restated in one of two ways. Normative political philosophy is incomplete without a claim that some feasible institution will lack or lessen the injustice, or normative political philosophy describes serious institutional defects, describing them as injustices only if some feasible institutional alternative will lack or lessen these defects.

[6] Ronald Beiner, "What Liberalism Means," *Social Philosophy and Policy* 13 (Winter 1996): 203, says the following: "A liberal is someone who says that the present social order in contemporary, Western, democratic, individualistic and pluralistic societies is basically okay, apart from a need for improvements in equality of opportunity and more equitable social distribution. A critic of liberalism like myself will say this is nonsense. To this, the liberal will reply: 'Okay, this isn't good enough; what's your alternative?' It is both necessary and legitimate for me to claim that I don't need to answer this question. . . . That's not my job. My job as a theorist is to criticize the prevailing social order." Thus Beiner claims he can engage in legitimate criticism without specifying any institutional alternatives that will do a better job.

of Justice argues that a society is unjust if market institutions dominate and government's role is limited, because free markets without state correction allow too much of a person's lot in life to be a result of luck, that is, by one's inherited natural abilities and fortuitous social circumstances.[7] Rawls argues for the difference principle, which says, roughly, that social and economic inequalities are justified only if they work to the greatest advantage of the most unlucky or the least advantaged. But how is the difference principle to be institutionalized? Rawls answers by listing the *aims* of various branches of government.[8] However, institutions cannot be adequately characterized by their aims. In the real world, political decision makers do not simply have intentions to achieve a just society that they can simply implement. They have agendas and interests of their own. Furthermore, even if the decision makers were extremely committed Rawlsians, they would face informational constraints, such as their ignorance about most of the facts that are relevant for a decision, the difficulties in evaluating the relevant evidence, and our uncertainty about predicting the consequences of various policies.[9] It may be that trying to instantiate the

[7] John Rawls, *A Theory of Justice*, 2nd ed. (Cambridge, MA: Harvard University Press), 1999, 62–4.

[8] Ibid., 244–5. It's worth noting that Rawls, in *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001), 135–40, claims that the institutions or regime needed to support or sustain his two principles of justice would be a "property owning democracy" (or perhaps "liberal socialism"), not a welfare state. The difference between a property-owning democracy and a welfare state seems to be that the former relies more on a widespread redistribution of assets and wealth rather than income. Because Rawls's remarks seem to suggest that a property-owning democracy maintains social-insurance programs (ibid., 139–40), it seems to me that a property-owning democracy is a welfare state of a certain kind, but in any event, this semantic disagreement is irrelevant for my purposes. The point is that whether we call Rawls's proposed institutions for instantiating or sustaining the difference principle a welfare state or something else, Rawls never shows that his favored institutions will sustain or instantiate the difference principle better than alternative, less interventionist or more market-based institutions. Rawls does concede that although he outlines "a family of policies aimed at securing background justice over time. . . . I make no attempt to show that they will actually do so. This would require an investigation of social theory" (ibid., 135). However, without this social theory an argument that free markets are unjust and ought to be restricted or regulated by government programs has no force.

[9] For a thorough account of these sorts of epistemic problems, see Gerald Gaus, "Why All Welfare States (Including Laissez-Faire Ones) Are Unreasonable," *Social Philosophy and Policy* 15 (Summer 1998): 16–19. Ironically, Rawls recognized these kinds of epistemic problems in his discussion of "the burdens of judgment," which is his attempt to explain the sources of reasonable disagreement. See John Rawls, *Political Liberalism*

difference principle by government produces more inequalities than Rawls believes come about by the result of unfettered markets. Certainly our experience with welfare-state policies in the last half-century indicates that welfare-state programs do backfire and produce something quite different from their intended results.[10]

Similar problems infect Ronald Dworkin and Norman Daniels's criticisms of market health insurance (MHI). To simplify greatly (Dworkin and Daniels's views are discussed in Chapter 3), they argue that MHI is unjust because it prevents the poor and the unlucky from attaining adequate access to health care. National health insurance (NHI) is prescribed as the cure, but as Daniels and Dworkin recognize, that typically requires government rationing. They do not discuss how this rationing will improve the situation of those who are supposedly blocked from adequate health care in the market. It may turn out – I argue it does turn out – that the poor and unlucky's access to rationed services (surgery, high-tech equipment, etc.) in NHI is much worse than the affluent's access to such services, in which case that kind of insurance may be more unjust than MHI.

A sound argument for institutional change must avoid jumping between the real and the ideal. An argument that an institution is bad or unjust in some way is presumably about a real institution. Hence, an argument for changing or abolishing that institution must specify a real or realistic alternative.[11] It is a mistake to condemn a real institution

(New York: Columbia University Press, 1993), 56–7. However, he never seemed to realize that the burdens of judgments also apply to government agencies and that simply explaining that these agencies intend to carry out Rawlsian justice is a far cry from showing that these agencies will do a better job than if these agencies didn't exist or had a different task.

[10] I do not discuss Rawls's views in later chapters, because he doesn't provide detailed defenses of specific existing welfare-state programs. I mention him here because some defenders of the welfare state take their inspiration from Rawls, e.g., Norman Daniels.

[11] I say "real or realistic" because there may be no alternative in existence anywhere in the world. However, provided the alternative is realistic, i.e., could work as advertised without assuming substantial changes in human nature, and is similar to how real institutions work (or at least is not terribly dissimilar), using a nonexistent alternative to compare with an existing one is acceptable. In such cases, however, one is intellectually obligated to refute any arguments that such institutions could not exist and/or to explain why such alternatives are not now in existence. So, e.g., I argue in Chapter 3 that MHI is superior to government-provided versions of these insurances. This argument requires me to explain why existing private health insurance is not genuine MHI.

by some ideal without showing that there are institutional processes that have at least a decent chance of instantiating that ideal in the real world.[12] Of course, there is nothing wrong with evaluating an ideal in terms of another ideal, but that is irrelevant for the topic at hand here because welfare-state institutions are obviously real institutions.

This suggests the following argument for institutional change:

1. Institution X manifests or produces injustice or social evil E.
2. Institution Y has processes or mechanisms that make it likely that it will lack E or manifest or produce less of E than X does.
3. If an institution produces or manifests more injustice or evil than a feasible alternative, it ought to be altered or abolished.
4. Therefore, we should abolish or alter X and bring about Y.

This still isn't quite right, because even if Y produces or manifests less of E, the change from X to Y might produce or manifest such side effects or so much injustice that it would be wrong to change X and try to bring about Y.[13] In any event, the preceding argument gives a rough idea of how I will show that the welfare state is not justified. I will argue that core welfare-state institutions, when compared with

[12] In some cases, it is so obvious that the institutional alternative will eliminate the injustice or social evil that we don't bother to specify the former. Consider, e.g., such horrible injustices as slavery and genocide. If the evil or injustice simply consists of people being enslaved or murdered because of their ethnicity, race, class, etc., then the institutional alternative that eliminates these evils is simply the cessation of slavery and genocide. We don't have to specify anything further, because simply abolishing the institution eliminates the injustice or evil, and even if other injustices or evils come about as a side effect of that abolition, we tend to think that this is irrelevant because simply eliminating that injustice or social evil was our aim, and abolishing the institution eliminated the injustice or social evil. It may be that obvious cases like this mislead some thinkers into believing that identifying an institution as manifesting or containing an injustice or social evil is sufficient to support an argument for its alteration or abolition. However, in most cases the injustice or social evil of a certain institution doesn't just consist in the existence of the institution, but in some further feature the institution manifests or brings about, and so simply ceasing to have that institution doesn't show that an alternative institution will manifest or produce less injustice or social evil. Notice, also, that for those who think the evil of slavery consists not just in the existence of slavery but what it brings about (e.g., a gross diminution of welfare or well-being) then specifying an institutional alternative does become essential. That is why those who oppose slavery on the utilitarian grounds that it reduces human welfare have a more complicated argument for its abolition than those who think human enslavement is simply a gross injustice.

[13] I call this the *transition problem* in Chapter 8.

real market alternatives, produce or manifest more injustice or social harms, or, to put it positively, market institutions are more just or better than present welfare-state institutions. I will call this kind of argument *comparative institutional evaluation* or *comparative evaluation.*

1.2 Internal Versus External Arguments

My use of comparative evaluations will also avoid external arguments and use internal arguments. To illustrate that distinction, consider a debate between an egalitarian defender of the welfare state and a libertarian critic. The egalitarian might defend the welfare state on the grounds that it produces less of certain inequalities than market institutions, and the libertarian might object that those inequalities are not unjust or that there are more important values or principles than reducing certain inequalities, such as protecting individual rights or maximizing individual liberty. Notice that in this type of argument the libertarian does *not* contest the view that the welfare state will produce less of certain inequalities than market institutions – or to put it another way she seems to accept, at least for the sake of the argument, that market institutions produce more of certain inequalities than the welfare state – and instead rejects the egalitarian view of justice and argues that libertarian values are more important than egalitarian ones. In this example, the libertarian is making what I call an external argument, because she argues from a normative standpoint outside of the egalitarian's view. Similarly, if the libertarian defended free-market capitalism on the grounds that it maximized individual liberty and the egalitarian did not contest that claim but argued that there are more important values than individual liberty, then the egalitarian would be making an external argument. Most political philosophers today use external arguments. The use of external arguments explains why much of political philosophy places social-science considerations in the background. After all, if political philosophers disagree about whether or not markets are superior to welfare-state institutions (or to certain welfare-state institutions) because they disagree about which principles of justice or political values are the most plausible and important, then it is unsurprising that they will tend to ignore the question of whether the institutions work the way that their opponents assume that they do.

Although there is nothing wrong with external arguments, and they are appropriate for philosophical concerns with fundamental issues, they have an important disadvantage – they tend not to produce any resolution of the disagreement. Even though disagreement about principles can be and often is reasonable, it is hard to convince one's opponents that their fundamental principles in political philosophy are mistaken. My aim in this book is to convince defenders of the welfare state that they are mistaken; therefore I will eschew external arguments and use internal arguments. I will argue that the principles that defenders of the welfare state take to support welfare-state institutions do not do so because these institutions do not work the way egalitarians and other defenders of the welfare state think that they do, because egalitarians and other defenders of the welfare state have misunderstood the implications of their principles, or both.[14]

Internal arguments of this kind may seem insincere. If one does not accept the opponent's principles or values, isn't it wrong to argue on the basis of that principle or value for a certain conclusion?[15] However, if a principle or value one does not accept yields a conclusion that *also* follows from a principle or value one does hold, there is nothing wrong with an internal argument. One is simply arguing that you and your opponent converge on a certain conclusion, though you begin from different premises. Furthermore, if one can show that this conclusion

[14] One might wonder why I make the distinction between internal and external arguments, rather than relying on the familiar logical terms of validity and soundness. After all, it might be said, an external argument is simply another name for an argument that is valid (conclusion follows from premises) but unsound (at least one premise is false), and an internal argument is simply another name for an argument that is invalid (the conclusion doesn't follow from the premises). However, the familiar logical terms aren't illuminating for the purposes of the book for a couple of reasons. First, they don't reveal that the premises are political principles or values and the conclusions concern institutions. Second, they don't reveal a point I go on to make in the text, that if all or almost all reasonable principles or values in political philosophy converge on supporting certain institutions, then that institution has far more solid support then if it were merely supported by one principle.

[15] I say internal arguments *of this kind* raise the issue of insincerity because other internal arguments would not. Consider two people who share a common premise or perspective but think that different conclusions follow from that premise or perspective. In that case, while the argument is an internal one – one is arguing from within one's opponent's perspective and not taking issue with it – because one shares a common ground with one's opponent, no one could reasonably maintain that one is being insincere. The issue of insincerity arises when one argues from within a perspective that one does not genuinely accept.

follows from *any* (or virtually any) reasonable premises or principles, then one will have provided far more solid support for the conclusion than if the conclusion followed only from one premise or principle – for even if some of the principles supporting the conclusion turn out to be false or implausible, there will be some true or plausible principles from which one can derive the conclusion. When applying this point to the institutional question of the welfare state versus market alternatives, support for the latter becomes quite strong if it is compatible with or entailed by most plausible normative principles or perspectives in political philosophy. If market alternatives to welfare-state institutions are supported by most or all plausible normative principles in political philosophy, then the debate will, or should, no longer be the welfare state versus those alternatives but what form of market institutions are the best.

My aim here is to shift the debate in just that way. I will provide internal arguments that the welfare state must be rejected in favor of market alternatives. The principles and goals that I will use to compare welfare-state programs with market alternatives are mainstream in contemporary political philosophy, specifically those principles and goals that are used to argue that welfare states are just or are part of the good society. (As I shall explain in Chapter 2, these principles or perspectives are egalitarianism, positive rights theory, communitarianism, and a requirement of liberalism I call *epistemic accessibility*.) Thus, this book aims to marry two kinds of literature that are often treated separately: normative arguments of political philosophers, and social-science analysis of institutions.

1.3 Clarifying the Institutional Alternatives

My arguments require that we be very clear about the nature of, and the differences between, welfare-state institutions and market alternatives. This is a bit tricky because definitions of the welfare state tend to be contentious.

1.3.1 Social Insurance and Means-tested Benefits

Government-financed and -administered insurance programs are often labeled as social insurance. They are insurance in the sense

that these programs protect against common risks of loss of income when or if certain events come to pass – retirement, illness, disease and injury, and unemployment, for example. The modifier *social* is meant to indicate a contrast with market insurance in three respects. First, social-insurance programs are compulsory, not voluntary; second, rates are not determined by actuarial considerations: beneficiaries are not charged on the basis of expected risk (the *raison d'être* of market insurance); third, because competition is absent or significantly restricted, consumers have little or limited choice of types of policies or benefits.

Social-insurance programs are universal, or nearly so, in the sense that all or virtually all citizens receive the benefits when or if the relevant contingency comes to pass. Old-age social insurance (Social Security or SS) and NHI are the most nearly universal; unemployment insurance and programs for injured or disabled workers (workers' compensation) are less so because not everyone works or works for an employer. As insurance programs, eligibility for benefits is based on contribution (by beneficiary and/or employer), and because these are government programs, contribution means paying taxes for some period of time. However, virtually all social-insurance programs are supplemented by or contain within them benefits for those who have never contributed. Even the elderly who never worked get government retirement benefits, and "free" medical care is provided to those who don't pay taxes. These supplemental programs increase the number and extent of the beneficiaries and make the programs more universal. Provided these supplemental, noncontribution-based programs do not dominate the contribution-based benefits, these programs as a whole remain based on contribution.

Whereas social-insurance programs are based (for the most part) on contribution, other welfare-state programs are based on need. As this is usually financial need, these are often labeled as means-tested programs. The word *means* usually refers to income, but sometimes income and assets are considered. Sometimes no effort is made to "test" or ascertain a recipient's need, and this is inferred from her status – so, for example, those who are eligible for unemployment assistance after their unemployment insurance benefits expire are not required to reveal their income, but it is reasonable to infer that they

are not affluent. Because most people in affluent democracies are not poor, means-tested programs are not universal but selective (although if the income cutoff is high enough or need defined broadly enough, these turn into virtually universal programs).

Means-tested programs are often equated with government welfare. This is a bit misleading. The word *welfare* has the connotation of providing cash benefits to able-bodied adults who need not (at present) be working; yet some means-tested programs require work as a condition for receiving benefits, and others provide in-kind aid rather than cash. Provided one keeps these qualifications in mind, however, there is no harm in equating means-tested benefits with government welfare. It is important, however, to distinguish between unconditional welfare, which provides aid without requiring work from the able-bodied or nondisabled, and conditional aid, which does require work, or at least requires a serious attempt to enter the work force and sharply reduces or eliminates benefits for the able-bodied who fail to do so.

One final point about social insurance and means-tested benefits: unless I say otherwise, my focus will not be on any particular country. There are enough similarities among different welfare states' social-insurance schemes and means-tested benefits that one can meaningfully abstract from the differences. This same point applies to my discussion of market alternatives to welfare-state institutions, although here I sometimes rely upon specific proposals or policies that have been or are used in specific countries.

1.3.2 Narrow Versus Broad Definitions of the Welfare State

I define the welfare state as consisting of social insurance and means-tested benefits. In so doing, I exclude two other sets of programs that sometimes are considered to be part of the welfare state. First, although state schooling is an obviously important function of modern states, its existence predates the expansion of the state's role in modern capitalism, and the arguments for state schooling are, to a significant extent, different from the arguments for social insurance and means-tested benefits. Second, I will, for the most part, exclude the whole panoply of programs and regulations that interfere with or heavily regulate voluntary contractual agreements between employers and employees, such as minimum wage laws, maximum hour regulation, health and safety regulations, and the like. It is defensible to

include these regulations as part of the welfare state. They emerged at about the same time as social-insurance programs, and the rejection of employment at will – the doctrine that employment may be terminated by either the employer or employee without cause – was a central feature of arguments against free-market capitalism. However, social-insurance and means-tested programs are what most people think about when they debate the "welfare state." For those who insist that these regulations are an essential part of the welfare state, then this book's arguments need to be recast: rather than aiming to show that the welfare state is unjustified, they aim to show that major welfare-state programs are unjustified when compared with market alternatives.

1.3.3 Choosing the Relevant Market Alternatives

A natural assumption is that market insurance is the direct opposite of social insurance. Because social insurance is compulsory, nonactuarial insurance with little choice of plans or policies, then market insurance would have to be voluntary, actuarially sound, and provide a wide range of plan choices. However, market insurance need not be understood as the direct opposite of social insurance. We can distinguish between voluntary, completely free-market insurance, and compulsory private insurance. The latter does remove the choice about whether to take out an insurance policy, but the management and financing of insurance are, for the most part, left to market arrangements, which means they are generally actuarially sound.[16] It is this kind of insurance that, I will argue, is justified from virtually every central normative perspective in contemporary political philosophy. Although I believe that voluntary, purely free-market insurance is superior to compulsory private insurance, I will not argue for that view in this book, because I do not believe the former can be justified internally from the point of view of the political values that predominate in contemporary political philosophy. Though I do not argue for the direct opposite of social insurance, the adoption of compulsory private insurance would mean

[16] Compulsory private insurance also contains a safety net for the indigent and those with uninsurable risks that are not wealthy. These subsidies are structured in such a way as to not interfere with the actuarial soundness of private insurance, as I shall discuss in later chapters.

the abandonment of central welfare-state institutions. Social insurance dominates the budgets of all contemporary welfare states, and thus it is quite significant if most normative perspectives in political philosophy should favor its abandonment.

Is there an analogue of private compulsory insurance in the realm of welfare? Not really. Compulsory private welfare would mean that individuals would be forced to maintain some kind of savings for times of misfortune or to keep them out of extreme poverty or deprivation. However, the proposal is a nonstarter because not everyone works or has discretionary income. Hence private charity is really the only viable alternative to state welfare.[17]

Now because I will argue that some versions of state welfare (those that require able-bodied citizens to work in order to receive benefits) and private charity are equally justifiable from the perspective of mainstream contemporary political philosophy, this might seem to imply that my arguments, if successful, do not show that the welfare state is unjustified – even using a narrow definition of the welfare state that excludes health and safety regulations and wage and hour regulations, for example. At this point, the issue may be largely a semantic one. Some writers make a distinction between an institutional welfare state,[18] which is mainly composed of universal social-insurance programs, and a residual welfare state, which is mainly composed of means-tested benefits or programs for the poor. If we use this distinction, all present welfare states are institutional welfare states,[19] and my arguments in this book, if successful, show that from the standpoint of the dominant values or principles in contemporary political philosophy, this kind of welfare state is unjustified. However, my arguments

[17] A qualification is needed here. Historically, private charity is not the only alternative to state welfare. Mutual-aid or fraternal societies were equally important alternatives in the late-nineteenth-century and early-twentieth-century United Kingdom and the United States. I discuss this in an appendix to Chapter 6, where I express skepticism that mutual-aid societies are viable in contemporary affluent societies.

[18] See Norman Barry, *Welfare*, 2nd ed. (Buckingham: Open University Press, 1999), ch. 8.

[19] Means-tested benefits are, as a budgetary matter, the lesser part of today's welfare states. See Nicholas Barr, "Economic Theory and the Welfare State: A Survey and Interpretation," *Journal of Economic Literature* 30 (June 1992): 742–5, 755, and Neil Gilbert, "Renegotiating Social Allocations: Choices and Issues," in *Targeting Social Benefits*, Neil Gilbert, ed. (New Brunswick, NJ: 2001), 213.

show that residual welfare states are justified or at least are permissible from that standpoint.[20]

1.4 Coming Attractions

Before I compare specific welfare-state institutions with market alternatives, I set out, in Chapter 2, the dominant perspectives in contemporary political philosophy that frame my arguments: egalitarianism, positive-rights theory, communitarianism, and a requirement of liberalism I dub *epistemic accessibility*. Chapters 3 through 5 discuss insurance programs, specifically the ones that both dominate welfare-state budgets as well as contemporary discussion: health insurance and retirement pensions. Chapters 6 and 7 discuss welfare programs. In Chapter 8, I take stock of what has been accomplished and discuss a possible way defenders of central welfare-state institutions might respond to my justification of feasible alternative market institutions: that even if my arguments are sound, they are incomplete, because I also need to show that the transition from unjust welfare-state institutions to feasible just alternatives would not produce such injustice during the transition process that it would be better to remain with the status quo. In the final chapter, I begin to address this challenge by explaining how a just transition can be made from the current SS in the United States to a compulsory private-pension (CPP) system.

[20] The reason I say "justified or at least permissible" is that my arguments, if successful, show that private compulsory insurance is justified, whereas some forms of state welfare are permissible (i.e., neither required nor forbidden). It is unclear as to which of these programs would be more important were the changes I recommend to happen, and so it is unclear whether residual welfare states are justified or simply permissible.

2

Central Perspectives in Political Philosophy

The bases for my comparative institutional evaluation are those principles and values that predominate in contemporary political philosophy, in particular those that are used to justify welfare states. These are egalitarianism (and a cousin, prioritarianism), positive-rights theory, communitarianism, and epistemic accessibility, a requirement common to many forms of liberalism. Before I describe these, some preliminaries are needed.

First, I do not discuss *every* major principle or value in contemporary political philosophy. I ignore, for example, socialism. Socialist principles and values either support abolishing welfare-state institutions (perhaps because they are too tainted with or constituted by the evils of market capitalism) or support welfare-state institutions as an adjunct to socialist institutions. If the former is correct, then socialist concerns are not relevant for my project because the institutional choices under consideration in this book are welfare states versus more market alternatives. If the latter is correct (which is more likely because most socialists today do not favor abolishing all market institutions),[1] then the principles or values that they rely on are likely to be the ones I will discuss – in particular, egalitarianism and communitarianism. I also

[1] For a discussion of market socialism among socialists, see Bertell Ollman, ed., *Market Socialism: The Debate among Socialists* (New York: Routledge: 1998); Christopher Pierson, *Socialism after Communism: The New Market Socialism* (University Park: Pennsylvania State University Press, 1995); and John E. Roemer, *A Future for Socialism* (Cambridge, MA: Harvard University Press, 1994).

will not spend time discussing libertarianism because it is quite obvious that libertarians will prefer market-based alternatives to welfare states. (Of course, libertarians would prefer pure free-market institutions to the qualified form of market institutions that are the focus of this book, but that is a separate matter).

Second, my discussion of these principles and values that are dominant in contemporary political philosophy does not focus on whether they are correct. However, I will sometimes explain how proponents of these values attempt to justify them because that explanation is often necessary to show why one would think these are important and reasonable political principles and values. That explanation, however, will stop before I get to their ultimate foundations or justifications.

2.1 Justice, Equality, and Fairness

2.1.1 Egalitarianism, Strictly Speaking

Many justifications of the welfare state appeal to principles of justice or fairness. Egalitarian principles of justice dominate many of these arguments, so I begin with them. Strictly speaking, egalitarian principles of justice are those that value or defend (some kind of) substantive material equality as such (i.e., consider it a noninstrumental value).[2] By *substantive* material equality I mean to distinguish egalitarianism from views that value or defend equality only in a formal sense – for example, views that require that everyone have equal rights or that there be equality before the law. (Henceforth, when I refer to equality I will mean equality in this substantive sense.) The reason I say that egalitarians value or defend (some kind of) equality *as such* is to distinguish egalitarianism from views that value or defend equality only as a means to an end, for example, to helping the worst off members of society. To illustrate the difference between egalitarianism, strictly speaking, and views that focus on or favor giving priority to the worst off, consider a comparison between (1) a redistribution from the better off to the worse off (however these terms are defined) and

[2] On this conceptual or terminological matter, I have been influenced by Larry S. Temkin, *Inequality* (New York: Oxford University Press), 7–8. T. M. Scanlon, *The Diversity of Objections to Equality* (Lawrence: The University of Kansas Lindley Lecture, 1997), 1–7, has a helpful catalog of arguments that seem to be egalitarian but, strictly speaking, are not.

(2) identical gains for the worse off with equal (or even greater) gains for the better off and suppose that the kind of inequality between the groups is the kind that egalitarians consider objectionable. If so, then an egalitarian will consider the first option better because there is less inequality between the better and worst off. (This ranking is defeasible because egalitarians will almost certainly not consider equality to be the *sole* value).[3] However, someone whose focus is on improving the situation of the worst off will be indifferent between the first and second option because the absolute position of the worst off is identical in both cases. Although "egalitarian" is often predicated on principles of justice, such as John Rawls's difference principle, which states that social and economic inequalities are to be arranged so that they are to the greatest benefit of the least advantaged,[4] it will be clearer if such principles are not described as egalitarian, and the label of egalitarianism is affixed only to views that consider equality a noninstrumental value. Views that give priority or significant weight to improving (at the limit, maximizing) the plight of the worst off and are only concerned with equality as a means to or as a by-product of improving the lot of the worst off will be labeled as prioritarianism or the priority view.

The reason I said that egalitarians value *some kind* of equality as such is that there are many inequalities and many respects in which one's life may go better or worse than another, and so any egalitarian theory must specify which kind or kinds of inequalities or disadvantages are its concern. Contemporary egalitarianism, in the last twenty years or so, has generally focused on unchosen or involuntary inequalities.[5] The root idea – endorsed by Richard Arneson, G. A. Cohen, Ronald Dworkin,

[3] Another way to put that point is to say that the former is better as far as equality is concerned but need not be judged to be better overall.

[4] Rawls, *A Theory of Justice*, 302 and *Political Liberalism* (New York: Columbia University Press, 1993), 291.

[5] Good guides to the literature of contemporary egalitarianism can be found in G. A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99, no. 4 (1989): 906–44; Richard J. Arneson, "Equality," in Robert E. Goodin and Philip Pettit, eds., *A Companion to Contemporary Political Philosophy* (Cambridge, MA: Blackwell Publishing, 1995), 489–507; Richard J. Arneson, "Equality," in Robert L. Simon, ed., *The Blackwell Guide to Social and Political Philosophy* (Malden, MA: Blackwell Publishing, 2002), 85–105; and Peter Vallentyne, "Self-Ownership and Equality: Brute Luck, Gifts, Universal Dominance and Leximin," *Ethics* 107, no. 2 (1997): 321–43.

Will Kymlicka, Thomas Nagel, John Roemer, and Peter Vallentyne[6] – is that inequalities or disadvantages that arise through no choice or fault of one's own are unfair and should be rectified or at least minimized in some way. This responsibility or choice condition helps to illuminate the overall structure of egalitarianism. Egalitarians generally divide their theory of justice into two parts. Where people generally make genuine or uncoerced choices, we need – as a matter of respect for persons' capacities to shape their own lives – individual rights that protect the freedom to act on these choices, and fairness requires that people be held responsible for the costs of their choices. Let us call this the *antisubsidization principle*. The other side of the coin of holding individuals responsible for the costs of their choices is that they are entitled to the advantages they gain through their choices, therefore inequalities or advantages resulting from choice are just. However, when unchosen circumstances or luck rather than choice rules, fairness dictates the unlucky or disadvantaged be compensated for their disadvantages, and so such inequalities are unjust.[7]

Many egalitarians use a distinction between option luck and brute luck to further explicate the structure of egalitarianism.[8] Option luck

[6] Richard Arneson, "Equality and Equal Opportunity for Welfare," in Louis P. Pojman and Robert Westmoreland, eds., *Equality: Selected Readings* (New York: Oxford University Press, 1996), 229–41; G. A. Cohen, "On the Currency of Egalitarian Justice," in Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000); Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2nd ed. (New York: Oxford University Press, 2002), ch. 3; Thomas Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991); Eric Rakowski, *Equal Justice* (Oxford: New York University Press, 1991); John Roemer, *Equality of Opportunity* (Cambridge, MA: Harvard University Press, 1998), ch. 3; and Vallentyne, "Self-Ownership and Equality."

Arneson, however, has recently changed his mind and now favors the priority view. See Richard J. Arneson, "Equality of Opportunity for Welfare Defended and Recanted," *Journal of Political Philosophy* 7, no. 4 (1999): 488–97.

[7] Not all contemporary philosophers who describe themselves as egalitarians believe that the focus should be on correcting for unchosen or involuntary inequalities. They deny that egalitarianism is, at root, a doctrine that is concerned with substantive material equality. I discuss this in section 2.1.3.

[8] The distinction between option and brute luck comes from Ronald Dworkin, who played the crucial role in contemporary egalitarianism's incorporation of a responsibility or choice condition. See "What Is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs* 10 (Fall 1981): 293. This essay has been reprinted, with slight revisions, in *Sovereign Virtue*, ch. 2. There is, unfortunately, no canonical definition of the brute luck/option luck distinction. Dworkin originally defined it so that option

is the kind of luck or risks one could reasonably have taken into account when making choices, and brute luck is the kind of luck or risks one could not have reasonably avoided having or undertaking. (A slightly different way of making the distinction is in terms of reasonable influence: option luck concerns outcomes that it is reasonable to believe one could influence, while this is not true of brute luck). Because option luck is the kind of luck one can legitimately be said to choose to take into account or to influence, egalitarians view advantages derived from option luck as justly acquired; hence, option luck is placed in the part of the theory having to do with choice and responsibility. Regarding this way of understanding egalitarianism, its primary concern or aim is to extinguish or at least minimize the effects of bad brute luck. Most egalitarians do not see extinguishing or minimizing the effects of *good* brute luck as an essential aim of justice.[9] However, they do think that the beneficiaries of good brute luck are the ones who are supposed to compensate the victims of bad brute luck. Those whose advantages are achieved by choice or option luck are entitled to their advantages, so they cannot justly be compelled to aid the unlucky. Because the point of the transfer from the beneficiaries of good brute luck to the victims of bad brute luck is not to harm the former but to aid the latter, some egalitarians insist that the transfers are justified

luck is luck that results from a deliberate or calculated gamble, but later egalitarians have modified this, probably because Dworkin's definition seems too restrictive. The key intuition behind the distinction is whether choices significantly influence one's outcomes, and choices can play a significant role even where one does not deliberate or calculate. My use of the distinction comes from Vallentyne's gloss on Dworkin's distinction; see Vallentyne, "Self-Ownership and Equality," 329, as well as "Brute Luck, Option Luck, and Equality of Initial Opportunities," *Ethics* 112, no. 3 (2002): 531–8. For egalitarian skepticism about the usefulness of the distinction between option and brute luck as a way of tracking responsibility, see Kasper Lippert-Rasmussen, "Egalitarianism, Option Luck, and Responsibility," *Ethics* 111 (April 2001): 548–79.

9 There are at least two reasons for this. First, as Vallentyne notes ("Self-Ownership and Equality," 329–32), to the extent egalitarians endorse some kind of principle of self-ownership, certain ways of attempting to limit persons' brute good luck, such as preventing them from exercising their native talents, are unjust. Second, as G. A. Cohen notes, egalitarians are generally not interested in reducing inequalities among those who are very well off (e.g., between someone who is very rich and someone who is just rich) in part because egalitarianism becomes a very unappealing doctrine if it focuses on leveling down or worsening the position of the better off where this produces no benefit for those who are significantly disadvantaged. Cohen, "Incentives, Inequality and Community," in *Equal Freedom: Selected Tanner Lectures on Human Values*, Stephen Darwall, ed. (Ann Arbor: University of Michigan Press, 1995), 335.