

# Basic income and social justice

## Why philosophers disagree<sup>1</sup>

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### **From Milner to Barry**

The basic income movement has long had, in this country, a special relationship with the Quaker movement, and thereby with The Joseph Rowntree Foundation. It is therefore a special pleasure and privilege to be given this opportunity to talk about basic income in the context of a Rowntree lecture.

The very first public debate about the idea of a universal basic income, or at least the very first to be documented and remembered, took place in England shortly after the end of the first world war. What was then called 'state bonus' corresponds precisely to what is now called 'basic income', i.e. an income unconditionally paid to every member of society, without means test or work requirement. Its main protagonists were two Quakers called Dennis Milner and Bertram Pickard, who founded a 'state bonus league' in 1919. Milner published several pamphlets and a book entitled *Higher production by a bonus on national output: A proposal for a minimum income for all varying with national productivity*, (Milner, 1920) which offers a large set of arguments many of which sound strikingly relevant today. The state bonus proposal was debated and rejected at the 1920 Labour conference. In 1923, Milner left for the USA, where he seems to have vanished from recorded memory. As to Bertram Pickard, he left for Geneva, where he became the neighbour and friend of the future Nobel laureate James Meade, himself a fervent advocate of basic income for several decades and one of the mentors of Tony Atkinson, whose work has greatly contributed to the rigour of contemporary thinking about basic income and whom I have the honour of having as my discussant today.

However, I would like to dedicate today's lecture to another major British contributor to the basic income discussion, one of my own mentors, who died in London two days ago. When I first arrived in Oxford in October 1974, I was assigned to a youngish lecturer and fellow of Nuffield College called Brian Barry. He supervised me for only one term, as he then left for North America – first the University of British Columbia, later the University of Chicago – but I saw him later on many occasions, including several that had a direct connection to basic income. Thus, in 1989, Brian Barry came to Louvain-la-Neuve for a conference on the ethical foundations of basic income.

His assignment was to comment on John Baker's 'egalitarian case for basic income' and his conclusion at the time was unequivocally expressed in the title of his chapter in the collective volume that came out of the conference: 'Equality yes, basic income no' (Barry, 1992). A couple of years later, however, someone forwarded to me the text of a fiery plea for basic income which he delivered to a largely neo-liberal audience at the University of Kiel, in Germany (Barry, 1994). From then on, he proved to have become a very consistent, articulate and exceptionally vigorous advocate of basic income (Barry, 1996a; 1996b; 1997; 2000). In 2006, in his characteristically despondent style, he even concluded his last seminar at Columbia University by stating that only two important things happened in political philosophy in the course of his career: the publication of Rawls' *Theory of Justice* (Rawls, 1971) and the debate on the basic income.<sup>2</sup>

Brian Barry was not exactly an easy person nor a charitable critic. Some of his book reviews will be remembered as among the least forgiving in the history of political philosophy. But he was also an incredibly sharp thinker who alerted the philosophical profession to many emerging big and difficult issues, such as intergenerational justice or global justice, long before they became commonplace. Moreover, as forcefully expressed in his last book (Barry, 2005), he was one of those philosophers who believe that their job does not reduce to exegetical quibbles and analytical hair splitting, but that they have a role to play in making our world more just. Brian was a great political philosopher, an invaluable ally on several fronts, someone for whom I have had, ever since I first met him as a shy student freshly arrived from the continent, great admiration and great affection. I want to dedicate this lecture to his memory.

### **Disappointment in a Paris taxi**

What I have to tell you today, after this twofold preamble, is the continuation of a conversation I had in Paris in November 1987 with two other giants of contemporary political philosophy. In addition to the driver and me, there were three

people stuck in a taxi that was taking us through a cold and rainy evening to the closing party of a conference we had been attending: two American gentlemen and our French host. With the American gentleman sitting next to the driver I had had, on that very morning in the basement of the Hotel des Grands Hommes, an extremely exciting yet frankly disappointing conversation. I had bought his (then) only book from Blackwell's bookshop in Oxford soon after my first encounter with Brian Barry, but had not read it until several years later. When I finally got round to reading it, in the early 1980s, indeed studying it and then teaching it, I was immensely impressed, but also intrigued. I had accumulated a long list of questions, some of which I was only too pleased to have the privilege of asking the author himself over a couple of long *tête-à-tête* breakfasts in the margin of the conference organised to celebrate the publication of the French translation of his book.

John Rawls – you will have recognised him – graciously and patiently answered the many questions I had time to ask him, including the one I formulated with the greatest trepidation: was it as clear to him as it was to me that his principles of justice justified not only some sort of 'social minimum', but far more specifically the unconditional form of social minimum which I had then started advocating along with a bunch of colleagues from several countries with whom I had just founded the Basic Income European Network. For Rawls' celebrated Difference Principle of distributive justice, I was eager to stress, did not simply require that one should maximize the income of the worst off, but rather an index that also mentioned, in addition to income, wealth, powers and the social bases of self-respect. And surely, once these dimensions are taken into account, the case for an unconditional basic income looks particularly strong, as its unconditional nature makes it more like an endowment of wealth, enhances the power of the weakest in both employment and household contexts, and avoids the stigmatisation and humiliation that tends to be associated with targeting the really needy.

Moreover, both in an earlier article and in *A Theory of Justice*, Rawls picked up explicitly the then very novel concept of a ‘negative income tax’ to illustrate the institutional implementation of the Difference Principle, at a time when the concept was used, for example by James Tobin, in a broad sense that covered what he called the demogrant, i.e. precisely a universal basic income.<sup>3</sup> Consequently, the Rawlsian case for basic income seemed to me overwhelming. It just needed spelling out.<sup>4</sup>

Yet, to my surprise, John Rawls himself did not agree. Over the breakfast table, he gently told me that, contrary to what the Difference Principle might indeed suggest, his own considered judgement was that Malibu surfers could not legitimately expect to have their way of life subsidized by public benefits.<sup>5</sup> This response left me so stunned that I could not resist the temptation to raise the issue again, as we were sharing a taxi at the end of the same day, especially as I was hoping to enlist the support of the other American gentleman, squeezed with me on the back seat. I remembered very vividly reading a striking article of his, in which the unconditional distribution of an equal number of clamshells to all the survivors of a shipwreck famously played an essential role. Someone who gave the unconditional granting of an equal amount of numeraire such a central place in the exposition of his conception of distributive justice could hardly be expected to be hostile to a universal basic income. But I was in for another disappointment. For Ronald Dworkin – that was the name of the gentleman on the back seat – also believed in the legitimacy of some sort of minimum income provision, but again only for those among the able-bodied who made themselves available for work. Indeed, it turned out to my dismay, ‘Ronnie’ found ‘Jack’ too soft on welfare claimants. Before Jack had time to reassure Ronnie, and thereby help me grasp better what I had such a hard time swallowing over breakfast, the taxi reached its destination. The conversation thus came to an abrupt halt, but not my thinking about this puzzling disagreement.

### Why liberal-egalitarians disagree

What I want to do today is return to the subject of the taxi conversation in the light of a number of later developments, including the ‘Why surfers should be fed’ lecture I gave at Harvard in 1990 at the invitation of John Rawls and Amartya Sen, and the main changes which Rawls and Dworkin made in their respective theories of distributive justice since their classic formulations in, respectively, *A Theory of Justice* (Rawls, 1971) and *What is Equality?* (Dworkin, 1981). Doing this, I concede, matches only a pretty narrow interpretation of the subtitle of today’s lecture: ‘why philosophers disagree’. Not all philosophers with a definite view on the relationship between basic income and social justice were squeezed in that Paris taxi. However, in a way, the narrowness of the interpretation makes the question more interesting, precisely because Rawls, Dworkin and I seem to share the same basic ethical intuitions as to what justice requires and yet seem to strongly disagree about whether an unconditional basic income is justified. At the same time, relevance for the public debate is hardly diminished, for any plausible conception of justice must be able to accommodate something quite close to these intuitions. So here, at least, I shall take this for granted.

The intuitive ground shared by the three conceptions of distributive justice on which I shall concentrate can be characterised by stating that they are both liberal and egalitarian. They are *liberal* in the sense that they do not rest on some specific conception of the good life. And they are *egalitarian* in the sense that they allow for at most four kinds of justifications for the unequal distribution of whatever resources matter to our lives. They can make room for justified inequalities by virtue of being:

1. *Responsibility-sensitive*: some people can justly have more than others by virtue of the preferences they have or the choices they made (this is what distinguishes *opportunity-egalitarian* from *outcome-egalitarian* conceptions).

2. *Efficiency-sensitive*: some people can justly have more than others because sustainably narrowing the gap would involve an unreasonable cost (this is what distinguishes *lax-egalitarian* from *strict-egalitarian* conceptions).
3. *Liberty-constrained*: some people can justly have more than others because sustainably narrowing the gap would require a violation of the formal freedom of at least some people (their 'self-ownership', their 'fundamental liberties').
4. *Dignity-constrained*: some people can justly have more than others because making a smaller gap sustainable would require denying appropriate respect to at least some people (their 'equal status', their 'social bases of self-respect').

The three philosophers in the taxi are of course far from being alone in the liberal-egalitarian family so defined, indeed even in the lax-opportunity egalitarian sub-family to which they arguably belong. Brian Barry and Amartya Sen, for example, easily fit into the same box. So do several people I know in this audience, and no doubt many more would join us if given sufficient time to reflect. Quite a few qualifications might be useful at this stage, but in order to get as quickly as possible to what puzzled me so much in the taxi, I want to focus instead on the following three questions:

1. How did Rawls' main modification of his theory of distributive justice make it less, rather than more, hostile to the justification of an unconditional basic income?
2. How did Dworkin's main modification of his theory of distributive justice affect the latter's relationship to the justification of an unconditional basic income?
3. Why does my own theory of distributive justice provide a justification of an unconditional basic income that is less contingent than both Rawls' and Dworkin's?

### John Rawls and the Malibu surfers

According to Rawls' original formulation of his Difference Principle, inequalities in social and economic advantages are just if they work to the advantage of those who occupy the least advantaged social position, with advantage defined in terms of an index of income, wealth, and powers and prerogatives attached to social positions (Rawls, 1971, pp. 62 and 93). The most straightforward interpretation of this principle seemed to imply that people without earnings were among the least advantaged and hence entitled to some benefit. How high a benefit? As high as is sustainable, bearing in mind that high levels of both the benefits and of the taxes needed to fund them would induce workers to leave factories and offices and spend more of their time on the beaches. In order to block off this implication, embarrassingly indulgent (he felt) on Malibu surfers, Rawls proposed to include leisure in the index of social and economic advantages in terms of which his Difference Principle is formulated, and hence to add leisure to the social primary goods which provide its theory of social justice with its basic framework. More specifically, he proposed to ascribe to those who choose full-time leisure a virtual income equivalent to the full-time minimum wage.<sup>6</sup> Consequently, the full-time Malibu surfers are no longer justified in indulging at the expense of the rest of society. If they want to consume real and not just virtual income, if they want to be fed and housed, they will have to work.

In the light of this move, the relationship between basic income and social justice seems settled: a Rawlsian justification of an unconditional basic income is out of the question. But is it really? There is one crucial aspect of the Difference Principle which it took me 20 years to notice and which Rawls himself seems to have lost sight of when he provided his response on the Malibu surfers. What it requires is *not* that the worst off individuals should be made as well off as possible in terms of an index of outcomes, as specified by a list of social and economic advantages. What the Difference Principle requires us to maximise is

rather *the average value of this index achieved, over the course of their lives, by the people who occupy the worst social position*, i.e. the social position whose incumbents have the lowest expected advantages, as measured by the index. In other words, it is not the individuals' scores, but the social positions' average scores that need to be sustainably maximised. This is why the Difference Principle is an opportunity-egalitarian rather than an outcome-egalitarian principle.

Is maximising the average score of people in the worst position not just a rough way of maximising the worst score? It would be if social positions were defined, as Rawls sometimes suggests they might be, as income or wealth categories: 'Thus all persons with less than half of the median income and wealth may be taken as the least advantaged segment.' Such a characterisation of the worst off category 'solely in terms of relative income and wealth with no reference to social positions', he writes, 'will serve well enough'. (Rawls, 1971, pp. 98) However, as this passage implies, Rawls thinks of 'social positions' as conceptually distinct from income and wealth categories, even though the latter provide convenient proxies for many practical purposes. He even occasionally calls them 'starting places' (Rawls, 1971, pp. 96) or 'so-called starting places' (Rawls, 1971, pp. 100), which provides reasonable support to the view that they are rather 'the places in society people are born into' (Scanlon, 1973, pp. 1059). To be able to make sense of the principle of fair equality of opportunities as defining fair access to unequally attractive social positions, however, a social position is best understood not as the social class in which one grows up, but as the occupational category, more or less broadly defined, to which one belongs throughout one's life. Examples mentioned by Rawls himself include 'unskilled workers', 'farmers' or 'dairy farmers' (Rawls, 1971, pp. 96).

Now, among individuals sharing the same social position in this sense, actual lifetime performance in terms of income, wealth,

powers and prerogatives can vary considerably, as a result of events which combine chance and choice in varying, generally un-assessable, proportions. Some keep buying on credit, others work overtime. Some give birth to a handicapped child, others make big losses when selling their house following a costly divorce. Within each position, considerable variation in lifetime levels of income and wealth will result. In addition, the average index will vary considerably across social positions, typically as a function of the scarcity of the skills required to occupy them and of the social demand for the services performed within them. Unlike most better positions, the worst position, i.e. the position with the lowest average index, will be accessible to what Rawls sometimes calls the 'least fortunate' (Rawls 1971, pp. 102) or, more ambiguously, 'the least advantaged'.

*'The least advantaged are defined very roughly, as the overlap between those who are least favoured by each of the three main kinds of contingencies. Thus this group includes persons whose family and class origins are more disadvantaged than others, whose natural endowments have permitted them to fare less well, and whose fortune and luck have been relatively less favourable [...].'* (Rawls 1988, pp. 258–9)

If this opportunity-egalitarian interpretation of the Difference Principle is adopted, the inclusion of leisure into the index of social and economic advantages has completely different implications. Under the usual outcome-egalitarian interpretation, regarding leisure as virtual income stripped surfers of their right to the benefit to which they would have been entitled if no account had been taken of the leisure they enjoy. If instead we adopt the opportunity-egalitarian interpretation, Malibu surfers cannot expect anything as long as



leisure does not feature in the index. For it should be obvious that a social arrangement that includes a minimum income scheme without a work test will do worse *ceteris paribus*, by the standards of the Difference Principle, than one with a work-tested minimum income scheme that would deny income to full-time surfers. There is therefore no way in which Rawls' unaugmented Difference Principle, properly interpreted, could condone softness on Malibu surfers. But now consider the Difference Principle soundly cured from its original one-sidedness, through leisure time being sensibly added to the index of social and economic advantages. This supplementation makes the designing of the index more delicate, as one can no longer count on a strong positive correlation between its various components: income, wealth, powers and prerogatives tend to go together, but between income and leisure there is an unavoidable trade-off. What sort of arrangement will turn out to be optimal, by the standards of the Difference Principle, will crucially depend on the relative weights the index will ascribe to income and leisure, on the exact characterisation of social positions and on a great many contingent empirical facts. But one thing is certain: once the leisure enjoyed over their lifetimes by the incumbents of a social position no longer counts for nothing, surfers will have a higher rather than a lower chance of being justly fed according to Rawls' Difference Principle, appropriately interpreted along opportunity-egalitarian lines. Ironically, the very move which Rawls thought was needed to prevent his theory from condoning an unconditional basic income actually made it more sympathetic to it.

### **Ronald Dworkin's *tour de force***

What about Dworkin? Like Rawls' (properly interpreted), Dworkin's theory of distributive justice is of the lax opportunity-egalitarian variety. But it is motivated by dissatisfaction with Rawls' theory on the ground that the latter is not egalitarian enough, not efficiency-sensitive enough, and not responsibility-sensitive enough. Rawls is not egalitarian enough, according to Dworkin (Dworkin,1981, pp. 339), because his

theory of distributive justice pays inappropriately little attention to the plight of the handicapped: some are simply excluded from consideration because they fall outside what Rawls calls the 'normal range', and even the others are granted no specific compensation on grounds of their handicap. At the same time, Rawls is not efficiency-sensitive enough, Dworkin claims, because gains, however small, for the worst off justify losses, however big, for everyone else (Dworkin,1981, pp. 339–40). Thirdly, and most importantly in Dworkin's eyes, Rawls' theory is not responsibility-sensitive enough. It fails to pay appropriate attention to ambition (Dworkin,1981, pp.343–4). One might try to address each of these putative defects separately. What Dworkin proposes is an alternative theory of distributive justice that gets rid of all three in one sweep.

The core of his approach is captured by the conjunction of two 'twin principles' (Dworkin, 2000, pp. 324 and 340; Dworkin, 2006, pp. 98, 103-4): 'equal concern', or the idea that it is equally important to the political community that each person's life should go well, and 'personal responsibility', or the idea that the fate of each person should be sensitive to their own choices. From these principles it follows that distributive justice consists in making people's share of resources both ambition-sensitive and endowment-insensitive, sensitive to people's choices and insensitive to their circumstances (Dworkin 1981, pp. 311; Dworkin, 2000, pp. 322–23). To give these abstract demands a more precise expression, Dworkin uses two devices – a competitive auction and a hypothetical insurance scheme – which are meant to specify how the just distribution can remain ambition-sensitive while being made endowment-insensitive in the space of impersonal and personal resources, respectively. Or at least so it seems.

The first device invites us to imagine a situation in which a number of shipwrecked people arrive on a desert island. An auctioneer is put in charge of selling all the goods found on the island, each divided as finely as makes any sense. Each shipwreck survivor is endowed

with an equal number of clamshells and instructed to use all of them, and nothing else, to bid publicly for these goods on the basis of all relevant information. The auction stops and the goods are distributed between the shipwrecked when each clamshell is committed and each good assigned to the highest bidder. As a result of this process, the bundle allocated to each person can plausibly be interpreted as having the same *value* as the bundle allocated to any other, in the sense that its *opportunity cost* to others is the same. What the auction proposes is ‘that the true measure of the social resources devoted to the life of one person is fixed by asking how important that resource is for others’ (Dworkin,1981, pp. 288).<sup>7</sup> By thus making the amount of goods each receives responsive to how valuable they are to others, the auction can be said to make the distribution of the island’s goods ambition-sensitive. By giving each of the shipwrecked an equal number of clamshells, it can also be said to make the distribution endowment-insensitive. Or at least it could be if only impersonal resources mattered. But what people will be able to achieve with the goods they are allocated will also depend on their personal resources, their talents. This is why we need a second device.

The key idea is that the availability of insurance turns brute luck – which endowment-sensitivity requires us to neutralise – into option luck, the consequences of which ambition-sensitivity requires each of us to bear. Brute luck is unchosen, whereas option luck is the outcome of a voluntary gamble. Those who take such a gamble and lose have no claim against those who win. And those who choose to abstain are owed nothing by those who gamble and win, nor owe anything to those who gamble and lose (Dworkin, 1981, pp. 292–5). In the first-best version of his hypothetical insurance scheme, Dworkin asks us to imagine that we each know the distribution of all talents and handicaps among the members of our society as well as our own preferences, including our risk aversion, and to specify how much we would insure under these assumptions for each possible risk if the probability of having any

particular talent or handicap were the same for everyone, bearing in mind that the premiums to be paid if lucky will have to cover the indemnities to be received if unlucky, each weighted by the probabilities of the situations that trigger them (Dworkin,1981, pp. 276–7). If it could be performed, this exercise would yield a set of person-specific vectors of lump-sum taxes and transfers, each corresponding to a possible endowment in personal resources of the person concerned.

In the real world, each person has such an endowment and, depending on what it happens to be and on the choices she would have made under the veil of ignorance, i.e. under the assumption of identical probability distributions for everyone, she will end up with a premium to be paid or an indemnity to be received. The resulting situation – the ex post distribution of bundles – is not envy-free. But this is not the unfair reflection of ex ante brute luck, but the fair outcome of ex post option luck: each person could have chosen to insure generously against being handicapped or poorly talented in any particular way, and if she did not she cannot complain that this is unfair. The insurance device, Dworkin writes, ‘aims to make people equal in their ex ante risk of bad luck, not in their ex post circumstances once bad luck strikes’ (Dworkin,2000,pp. 346).<sup>8</sup> Endowment-insensitivity is achieved by asking each to assume counter-factually that probabilities of good and bad brute luck are the same for all. Ambition-sensitivity requires that people should bear the consequences of the choices they make – or rather of the choices that can plausibly be attributed to them under those counter-factual circumstances.

From his earliest formulation (1981) to his most recent writings on the subject (2000, 2002, 2004, 2006), this insurance device features at the core of Dworkin’s approach. As explained so far, however, it is meant to make the just distribution endowment-sensitive only as regards personal resources. As regards impersonal resources, it seems that it is the auction that should guide us. If this is right, the

equal distribution of clamshells among shipwreck survivors suggests that Dworkin should favour a 100 per cent tax on all gifts and bequests, a suggestion further confirmed by Dworkin's systematic reminder that his insurance scheme must be assumed to operate on a background of equal wealth. However, he resists this implication, on the ground that it would amount to severely restricting the use people could make of their possessions: they could freely consume what they have but would be banned from giving it to others. In his original article, Dworkin cautiously left aside 'the troublesome issue of bequest' (Dworkin, 1981, pp. 334–5). When returning to the issue two decades later, he made a very different proposal. It is not the auction but a second, distinct hypothetical insurance scheme that should guide our effort to achieve insensitivity to impersonal endowments: 'we can imagine guardians contracting for insurance against their charges' having the bad luck to be born to parents who can give or will leave them relatively little' (Dworkin, 2000, pp. 347–8). However, he clearly felt that this was still not quite right: 'I am anxious, as always, for other suggestions.' (Dworkin, 2000, pp. 125).

It is only in his reply to Michael Otsuka that things fall into place. He there admits that he should have 'given a different (and now I think better) description of gift and inheritance tax as insurance premium. On this different account, such taxes fall not on the donor, as my discussion assumed, but on the recipient of the gift or bequest' (Dworkin, 2004, pp. 353). The upshot of this revision is that endowment-sensitivity is now achieved through a single hypothetical insurance scheme, with gift and inheritance lumped together with talents and handicaps among the dimensions of good and bad brute luck, to be transformed into option luck by the insurance scheme. In the first-best version of this scheme, we are asked to imagine all possible combinations of personal and impersonal endowments with their associated probabilities and to work out how high a premium we would be willing to pay or how high an indemnity we would want to receive in each

of these possible situations, on the assumption that we have the same probability as anyone else to be in each of them, and under the constraint that the premiums must probabilistically cover the indemnities.

### **Ronald Dworkin and the beach combers**

What emerges is a fascinating construct – a genuine intellectual *tour de force* – though one that involves a frightening amount of intellectual gymnastics, and moreover requires information that is unavoidably unavailable and, even if it were available to some people, could not be expected to be truthfully revealed.<sup>9</sup> Dworkin is aware of these difficulties and therefore falls back on 'what level of insurance of different kinds we can safely assume *that most reasonable people* would have bought if the wealth of the community had been equally divided and if, though everyone knew the overall odds of different forms of bad luck, no one had any reason to think that he himself had already had that bad luck or had better or worse odds of suffering it than anyone else' (Dworkin, 2006, pp. 115–116, my emphasis). Most explicitly: 'A community that adopts the insurance understanding of equal concern must treat the counter-factual question as statistical rather than individualised. It must ask roughly what level of coverage against risks of the character in question *would seem reasonable to the majority of people in the community, or to the average person, or something of that sort*, given the likely premium structure and given most people's needs, tastes and ambitions. Judgment is required to answer even so loose a question, of course, and different citizens and officials would answer it somewhat differently. But their answers would almost all fall within a certain range' (Dworkin, 2000, pp 345, my emphasis). Given that the cost of eliciting reliable individualised information would be extremely high, using reasonable assumptions about the average can afford considerable deviation from the choices some individuals would have made, while still being in everyone's interest (Dworkin, 2002, pp. 111–2).



The resulting rough approximation, Dworkin conjectures, will be a tax-funded scheme covering a number of specific risks. What sort of taxation? A progressive income tax rather than differentiated lump sum taxes on endowments, because of the difficulty of identifying and assessing the value of a person's talents (Dworkin, 1981, pp. 325–326; Dworkin, 2002, pp. 126–9). Which specific risks? Firstly, 'ordinary handicaps', such as blindness or deafness, with a level of premium and indemnity fixed by the average person (Dworkin, 1981, pp. 277–279). Secondly, the lack of sufficient skills to earn some minimum level of income. This could take a number of different forms, from unemployment benefit to training-and-jobs programmes, more or less dissuasive for 'scroungers' (Dworkin, 2000, pp. 336–8). But it can be conjectured that the minimum income policy to which the average person (or most reasonable people) would subscribe will guarantee an income level no lower than the unemployment benefits and minimum wages in the UK and the US (Dworkin, 1981, pp. 320), or at least no lower than the community's poverty line (Dworkin, 2000, pp. 335), and that it will 'stipulate that the beneficiary attempt to mitigate his position by seeking employment' (Dworkin, 2000, pp. 336; Dworkin 1981, pp. 325–6; Dworkin, 2002, pp. 114). In order to accommodate some mildly paternalistic considerations and to tackle free riding, part of this minimum income scheme could be provided in kind, especially in the form of a basic health care package (Dworkin, 2002, pp. 114–5).

Despite all these compromises, the approach to justice thus summarised is superior to Rawls', according to Dworkin, above all because it is more responsibility-sensitive. In particular, those who choose an unproductive way of life should pay the price of this choice by being denied an income. In contrast to what he takes to be Rawls' view, those who opt for 'idleness' cannot do so at the expense of the 'hard-working middle classes' (Dworkin, 2000, pp. 330–1). Rawls' conception of distributive justice, he claims, is inappropriately soft on those who 'prefer to comb beaches' (Dworkin, 2006, pp. 104). This critique is not exactly fair to Rawls for two reasons. Firstly,

it shows no awareness of Rawls' inclusion of leisure into the index of advantage, precisely motivated by criticisms of this sort. Secondly and most fundamentally, it misconstrues the Difference Principle as applying to individual scores rather than to lifetime expectations associated to social positions: once interpreted along outcome-egalitarian lines, the Difference Principle is far more responsibility-sensitive than Dworkin makes it out to be. Moreover, the question arises whether the most coherent version of Dworkin's theory should not force him to be far softer on beach combers than he is inclined to be.

Dworkin does concede from an early stage, as Rawls would, that even though the insurance scheme would justify a transfer system targeted at the involuntarily unemployed, 'perhaps a more general form of transfer, like a negative income tax, would prove on balance more efficient and fairer, in spite of the difficulties in such schemes. And whatever devices are chosen for bringing the distribution closer to equality of resources, some aid undoubtedly goes to those who have avoided rather than sought jobs' (Dworkin, 1983, pp. 208). However, it is clear that, from Dworkin's standpoint, such indulgence for the beach combers would be a deplorable departure from what justice requires: 'This is to be regretted because it offends one of the two principles that together make up equality of resources. But we come closer to that ideal by tolerating that inequity than by denying aid to the far greater number who would work if they could' (ibid.). One can interpret in the same spirit the further concession Dworkin makes in more recent writings when adding child poverty to the risks the insurance scheme should give us the possibility of insuring against: 'how much insurance would children buy, and on what terms against being born to indigent and unemployed parents?' (Dworkin, 2000, pp. 339). As it is difficult to keep children out of poverty without either depriving them of their parents – which Dworkin does not advocate – or keeping their parents too out of poverty – whether or not they 'avoided rather than sought

jobs' – this sensible extension of the insurance scheme breeds indulgence for further deviation from what justice would ideally require.

However, analogously to Rawls' case, it is Dworkin's only significant revision of his conception of distributive justice since his original article – namely the full integration of impersonal resources into the insurance scheme in the 2004 version of his theory – that makes the feeding of the beach combers a possible implication of justice itself. In Dworkin's first attempt to extend the insurance scheme to gifts and bequests (as described in the preceding section), he suggested that the proceeds of the taxes justified in this way should be earmarked for specific expenditures: 'not medical and unemployment benefits but public education, education and training loans and other programs that ease the impact of whatever economic stratification remains after the tax has been levied' (Dworkin, 2000, pp. 349). Why such restriction? Because inequality in inherited wealth matters in his view only for comparative reasons, and hence the taxes and transfers should exclusively aim 'to protect against economic stratification' by enabling (some of) the less wealthy to catch up with the wealthy. This suggestion, wisely not repeated when the comprehensive insurance scheme was given its final and most coherent form (Dworkin, 2004, pp. 353), is hardly convincing, indeed frankly bizarre, for three reasons.

Firstly, there is no reason why people should care about their endowment of impersonal resources just because of their relative position in the class hierarchy, rather than because of the absolute value of what it enables them to achieve – such as buying a house when starting a family or settling for a more pleasant but less lucrative activity than the one they would otherwise be forced to accept. Secondly, if there is a plausible case for the proceeds of inheritance and gift taxation to be earmarked in any way, this should be to provide a universal basic capital, as proposed by a whole line of social reformers, from Paine (1796) and Huet (1853) to Ackerman and Alstott (1999). Finally

and most fundamentally, once extended to all situations defined by both personal and impersonal endowments, there is no reason why the hypothetical insurance scheme should make such links between specific premiums and specific indemnities. But there is also no reason why people should care only about achieving a minimum purchasing power, irrespective of how little choice they are given about how to earn it. Under Dworkin's veil of ignorance, the 'crazies' who care exclusively about money will choose to be forced to accept any job if they happen to be poorly skilled, so that they can minimise taxation if they turn out to possess highly lucrative skills. But the 'lazies' who care instead for the quality of their life will opt for a scheme that gives them a minimum income even if they choose not to perform any of the jobs their low skills or family obligations give them access to, while making them pay higher taxes if their skills happen to give them access to high-paid work they do not mind performing.

In this light, the responsibility-sensitivity of Dworkin's approach no longer entails that 'to reward those who choose not to work with money taken in taxes from those who do work' is 'inherently wrong because it is unfair', nor 'that forced transfers from the ant to the grasshopper are inherently unfair' (Dworkin, 2000, pp. 329). Although even a modest negative income tax is unlikely to be unanimously chosen under the veil of ignorance – the 'crazies' would not opt for it – it seems most plausible that the 'lazies', as characterised above, would choose something like it, not as a way of free-riding on the crazies' work, but as part of their own ambition-sensitive actuarially fair hypothetical insurance scheme. In the first-best, individualised scheme, the responsibility-driven market metric does imply that the 'lazies' who would choose to forego activities rewarded by the market will have to bear, in the form of a lower income, the opportunity cost of their choices. But it cannot possibly imply that any transfer to the voluntarily idle would be a concession to injustice – at least within the framework of the (unworkable) first-best version

of Dworkin's scheme. What if we shift to the second-best, more realistic version of the scheme, now meant to track the choices of 'the average person' or of 'most reasonable people'? Admittedly, it should not mimic the 'lazies' preferred scheme, but nor should it mimic the 'crazies', as too eagerly taken for granted by Dworkin. Departure from the 'crazies' preferred scheme is not more nor less regrettable than departure from the 'lazies'.

Ironically, it thus turns out that the main revisions made by Rawls and Dworkin in their respective theories of distributive justice – the inclusion of leisure time in the Difference Principle and the subsumption of gifts and bequests under the insurance scheme – have one consequence in common. Allowing beach combers and Malibu surfers to be frugally fed need not be regarded as a deplorable concession to scroungers, but can conceivably belong, under some contingent yet not implausible factual conditions, to the basic structure endorsed by a responsibility-sensitive egalitarian conception of justice. In both cases, however, this remains a very conditional justification of a very modest unconditional income.

### **The highest sustainable basic income**

In *Real Freedom for All* (Van Parijs, 1995), I proposed another lax opportunity-egalitarian conception of distributive justice, yet one that ends up providing a first-best justification for an unconditional basic income. How is this possible? On the background of the previous discussion, this question can most conveniently be answered by returning to Dworkin's theory. As noted above, Dworkin initially seemed to offer a dual conception of distributive justice, with the competitive auction covering impersonal resources, and the hypothetical insurance scheme covering personal resources. He subsequently confined the auction to the (crucial) backstage function of justifying the use of a market metric and subjected both personal and impersonal resources to the insurance device. The approach developed in *Real Freedom for All* could be characterised as doing

exactly the opposite. It amounts to expanding dramatically the scope of the auction, while relegating a functional analogue of the insurance scheme – the criterion of undominated diversity – to a shrunk residual role. What motivated this move? Fundamentally the conviction that the opportunities we are given in life cannot adequately be conceptualised, as they are by Dworkin and in most liberal-egalitarian approaches to distributive justice (though not Rawls'), in terms of our endowments of personal and impersonal resources.

The underlying intuition is captured in emaciated format by so-called efficiency-wage theories of involuntary unemployment, as developed by Joseph Stiglitz, George Akerlof, Samuel Bowles and others. Through a number of distinct mechanisms, workers' productivity can be increased as a result of their employers paying them more than that which they could get away with. The outcome is that the profit-maximising wage exceeds the market-clearing wage and hence that involuntary unemployment will persist at equilibrium – in contrast to so-called 'Walrasian' models, where productivity is unresponsive to the pay level and where the equilibrium wage is therefore, of necessity, the market-clearing wage. Even in the most perfectly competitive circumstances – full information, costless entry and exit, no wage legislation or collective bargaining etc – it thus appears that people endowed with exactly the same personal and impersonal resources can be expected to be given very unequal opportunities.

What is captured in the highly purified air of these theoretical models is only the tiny and tidy tip of a massive and messy iceberg. In actual life, the opportunities we enjoy are fashioned in complex, largely unpredictable ways by the interaction of our genetic features with countless circumstances, from our happening to have a congenial primary school teacher or imaginative business partner to our happening to have learned the right language or our getting a tip for the right job at the right time. Once we bear this fully in mind, it no longer makes much sense to

try to imagine, as we are asked in Dworkin's first-best approach, all possible endowments of personal and impersonal resources we might have had and to determine how much we would have insured against having those we regard as unlucky. The alternative is to look directly at jobs and other market niches as incorporating very unequal gifts to which we are given very unequal access by a messy combination of factors. It is these gifts, and not only the much smaller amount that takes the form of donations and bequests that should be made the object of a Dworkin-like auction. This is the key distinguishing feature of the approach proposed in *Real Freedom for All*.

Needless to say, this assimilation of jobs to gifts is not uncontroversial. Is it not undermined, for example, by the fact that one generally needs to do something in order to get a job and keep it? This undeniable fact does not create a fundamental difference with donations or bequests. Attending politely your aunt's boring tea parties may be one of the necessary conditions for you not to get forgotten in her will. But this investment of yours does not make you 'deserve' the whole of the big chunk of wealth possessed by a person to whom you happened to be related. Similarly, the fact that one needs to go to the office every morning and busy oneself once there does not make one 'deserve' the whole of the salary one is able to earn by virtue of a combination of circumstances most of which are no less arbitrary than the fact that one of our parents happens to have a rich sister. In Dworkinian parlance, our ambition-driven choices and efforts, including those involving option luck, all operate on the background of massive brute luck. Whatever it was in the auction device that fed the presumption for taxing donations and bequests should be resolutely extended to the taxation of jobs, with the proceeds being distributed just as equally as Dworkin's clamshells in the form of an unconditional basic income. What is thereby being achieved should not be misunderstood as an equalisation of outcomes – a misunderstanding both as tempting and as serious here as it is in the case of Rawls'

Difference Principle – but as an equalisation of opportunities. By granting a basic income to all, one equalises what people are given, not what they achieve with what they are given.

Is there no risk of overshooting the mark? How can one be sure that only the 'gift' component of jobs is taxed away? In the lax egalitarian perspective for which *Real Freedom for All* proposes to settle, this is quite simple: just tax so as to sustainably maximise the tax yield, using nothing but predictable taxation, fully anticipated by all economic agents. More explicitly, taking efficiency considerations into account, as lax egalitarianism recommends we do, amounts to endorsing inequalities that are more than compensation for productive efforts – typically of greater magnitude than sipping the occasional cup of tea with one's aunt. It endorses higher rewards not only for those who happen to be endowed with more valuable talents, but also, for example, for those who happened to take advantage of unevenly spread information in an economy in permanent flux, or for those who are simply given more than their reservation wage because this is expected to boost their productivity. Trying to fully capture the gift component of jobs would involve an 'unreasonable' cost in the 'Rawlsian' sense of worsening the situation of the worst off. In the gift framework I propose, an efficiency-sensitive egalitarianism requires that the gift granted to those with the most modest gift should be as high as possible. How are the sizes of the gifts to be assessed?

This is where I side with Dworkin: by using the metric of opportunity costs, i.e. in terms of the cost to others of what the gift commands, itself approximated by appropriate market prices. If and only if this metric is adopted, we get a strong presumption – in the context of a discrimination-free market economy regulated in such a way that prices track opportunity costs – in favour of a universal cash income unconditionally granted to all and paid for out of the predictable taxation of all market activities. At what level? At the highest sustainable one, my lax egalitarianism recommends. This means

that the tax bases – earnings, capital income, transactions, consumption, value added etc – as well as the tax rates and profiles – linear, progressive, regressive or some combination – must be chosen so as to sustainably maximise the yield of the tax, under the constraint that it be predictable. Predictability is essential in order to prevent the institutional structure (as distinct from extraneous option luck) from taking from an economic agent more than the value of the gift incorporated in his or her activity, and hence in order to secure that, subject to markets functioning properly, everyone gets at least the value of the universal basic income.

Should an equal amount be given to everyone in one go at a given age or should the amount be spread over people's lives, possibly with a lower level in childhood and a higher level in old age? For mildly paternalistic reasons, *Real Freedom for All* favours the latter, just as it favours giving part of the grant in kind, in particular in the form of free or heavily subsidised education and health care (Van Parijs 1995, ch.2). How much and in what form? A thought experiment behind a veil of ignorance must provide guidelines for answering such questions: 'Supposing we had nothing but the universal basic grant and knew nothing about our life expectancy, health state and risks, how would we want it to be spread over our lifetimes and how much would we want ear-marked for specific expenditures?'

To this I added, in *Real Freedom for All*, a constraint of undominated diversity: justice requires that no particular person's comprehensive (i.e. personal and impersonal) endowment should be unanimously found worse than the comprehensive endowment of any other person. This concession to the endowment-based mainstream approach I felt was necessary to deal with egregious cases of handicaps which generate disadvantages only very partially captured by lesser access to jobs and other market opportunities. But I now believe this addition to be inessential. Once it is recognised that distributive justice must be defined in the first instance at the global level<sup>10</sup>,

the sort of thought experiment required to apply the criterion of undominated diversity becomes even trickier than it is in a domestic context, and even less likely to firmly justify significant transfers. To deal with non-pecuniary handicaps, one might as well rely on the nested veil-of-ignorance exercise mentioned above as a guide to devoting part of the universal grant to health care, bearing in mind that health care must be broadly construed as covering, for example, private devices and collective arrangements that facilitate the mobility of the blind or the disabled. Moreover, while the grant-based redistribution can and must be organised on the largest possible scale, this thought experiment can best be organised at a decentralised level so as to be sensitive to local circumstances and preferences. Thus, veil-of-ignorance exercises still have a role to play, but they are relegated to a subordinate function. In sharp contrast with the later Dworkin, an equal, or at least a fair distribution of all-purpose clamshells is the basic device. Fundamentally, justice is achieved by guaranteeing to every human being as high a minimal claim on the world's resources as is sustainable, in the form of a universal and unconditional grant presumptively given in cash.

### Three stylized pictures of society

In this light, the core of what *Real Freedom for All* proposed can be expressed as an articulation of four elements. Firstly, there is the ethical view, shared with Dworkin, that the fair sharing of goods to which no one has a prior claim – such as those found by the shipwreck's survivors on (the early) Dworkin's island or scarce jobs in my non-Walrasian economy – requires valuation by appropriate markets. Making people pay the true cost of what they appropriate is not only efficient but fair. Secondly, there is, shared with Rawls, the interpretation of lax egalitarianism in terms of sustainable maximin. Equalisation involves an unreasonable cost when it makes the worst off worse off. Thirdly, there is a stylised picture of society as a massive gift distribution machine, in contrast both to Dworkin's community of unequally endowed individuals and to Rawls'



system of inter-linked social positions. It is these gifts that must be viewed as the substratum of people's opportunities. It is therefore their value that must be equalised across individuals, at any rate to the extent recommended by the lax egalitarian sustainable-maximin criterion. And fourthly, there is, reminiscent of Daniels' (1985) or Dworkin's (2000, ch.8) approach to health care, a thought experiment about the concrete shape – lifetime profile, cash versus kind – which the highest sustainable basic grant should take.

These four elements combine to provide a theory of distributive justice that expresses, like Dworkin's or Rawls', a responsibility-sensitive, efficiency-sensitive liberal-egalitarian conception. The key difference with Dworkin and Rawls resides in the stylised picture of society which is needed to conceptualise inequalities and characterise justice. The cleavages in the Paris taxi were not between distinct fundamental intuitions about the requirements of justice but between distinct convictions as to how it makes most sense to depict our societies and inequalities between its members. Dworkin opts for the most common perspective, adopted by most of the economists and many of the philosophers who have been writing about distributive justice. The members of society are unequally endowed with earning power, talents, capabilities, etc and justice requires that inequalities in these internal endowments should be corrected through the distribution of external endowments. It is only in Walrasian general equilibrium, however, that internal and external endowments so defined exhaust the factors that determine people's life chances. In our messy real world, many other factors play a role that cannot be relegated to the margin as random noise. More than any specific feature, it is the inadequacy of this stylised picture that motivates my dissatisfaction with Dworkin's theory and other 'mainstream' approaches.

Dworkin's stylised picture is the most common one, shared for example by Richard Musgrave, Richard Arneson, G.A. Cohen and Amartya

Sen, but Rawls proposed a radically different picture. People can settle in different social positions for all sorts of reasons, and people settled in the same social position achieve very different levels of the index of social and economic advantages over their lifetimes, also for all sorts of different reasons. However, the notion of social position is tricky. It works best in a society with a number of distinct stable occupations in which people tend to stay for most of their lives. To apply it worldwide (contrary to Rawls' own conception of world-level justice) and in a world in which people jump up and down from one position to another, is not impossible. The Difference Principle simply asks us to focus on the index of social and economic advantages that can be expected by those spending their whole lives in the worst social position, as defined by the index. However, as soon as part-time work is involved, or interrupted careers, or long-term unemployment, we face head-on the hard question of how to construct the metric in terms of which social positions are to be compared, within regimes and across regimes, in particular the question of how to weight the components of the index which tend to be inversely correlated, in particular income and leisure. The solution proposed by Rawls himself is biased against leisure, and any welfarist resolution is unacceptable to him.<sup>11</sup>

The alternative I propose avoids, like Rawls', the mainstream reduction of opportunities to endowments. At the same time, it sidesteps both the need for a nomenclature of social positions and the need to provide an unbiased index that would make them comparable. Instead I propose focusing on the gifts we all receive, each measured by its opportunity cost as approximated by market prices. Maximising the value of the smallest gift is a way of maximising not only the power to consume of those with the smallest such power, but also, by broadening the range of occupations they could viably adopt, their power to choose the sort of life they want to live. It has, it must be admitted, limitations of its own, in particular the fact that it leaves out of the grasp of distributive justice all

those gifts we receive – including no doubt some of the most important to our lives, such as the love of those we love – which are not taxable themselves nor mainly a way of accessing positions which yield in turn a taxable income.<sup>12</sup> But perhaps this is just as well. Perhaps a conception of justice that boosts the market power of those with least market power will serve us well enough. Indeed, it will arguably serve us ever better, compared to the alternatives discussed, as mobility grows, globalisation deepens and the market widens and tightens its grip. And yet, paradoxically perhaps, the unconditional basic income it ends up justifying constitutes a powerful tool for protecting our lives against forced mobility, destructive globalisation and subjection to the despotism of the market.

## Notes

1 Earlier versions of parts of this lecture were presented at the seminar *Ethics, Economics and the Market* (Michael Sandel, Amartya Sen & Philippe Van Parijs, Harvard University, Department of Philosophy, Spring 2008), at the Annual Congress of the US Basic Income Guarantee Network (Boston, March 9, 2008), at the conference *New Approaches to Distributive Justice* (Washington University in St Louis, May 13, 2008), at Yale Law School's *Legal Theory Workshop* (18 September 2008) and at the 25th annual meeting of the September Group (New York, 19 September 2008). Special thanks to Frank Lovett, John Roemer, Michael Sandel, Tim Scanlon and Amartya Sen for useful feedback. The final sections also appear as part of my contribution to *The Anatomy of Justice. Themes from the Political Philosophy of Hillel Steiner* (I. Carter, S. de Wijze & M. Kramer eds. (2009), London: Routledge).

2 So I am told by my colleague Dan Wikler, who happened to attend it.

3 See Rawls (1967, pp. 41), Rawls (1971, pp. 275/243), Tobin *et al.* (1967).

4 This is what I attempted to do in the final sections of my contribution to the Paris symposium (Van Parijs, 1988).

5 And so he repeated in a footnote added to the written version of the lecture he gave at the Paris conference: 'So those who surf all day off Malibu must find a way to support themselves and would not be entitled to public funds' (Rawls 1988, pp. 455, fn 7). A revised version of the lecture appeared later as a chapter of *Political Liberalism*, where he inserted after the sentence just quoted: 'Plainly, this brief remark is not intended as endorsing any particular social policy at all. To do that would require a careful study of the circumstances' (Rawls 1993, pp. 182, fn 9).

6 See Rawls (1988, pp. 257 and 2001, pp 179). A vague version of the same idea can already

be found in Rawls' response to a suggestion by Richard Musgrave: 'While the notion of leisure seems to me to call for clarification, there may be good reasons for including it among the primary goods and therefore in the index as Musgrave proposes' (Rawls 1974, pp 253). Sometimes Dworkin presents the equal allocation(s) as just one or more elements in the set of envy-free allocations (1981, pp 286–7). On the other hand, he finds it 'hard to see how inequality could exist without envy in that technical sense' (2002, pp. 117, fn 19), which suggests that all envy-free allocations are, by definition, equal allocations. I shall take the former interpretation to be the most consistent.

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8 Consequently, Dworkin's concession that ex post envy for the job of the film star shows that resources are not appropriately equalised (1981, pp. 329–31) is not warranted, as he pointed out himself subsequently (2002). Only ex ante envy-freeness is required by endowment-insensitive responsibility-sensitive distributive justice.

9 A first intrinsic problem stems from the causal relationship between endowments and preferences (Dworkin, 1981, pp. 313–4 and pp. 315–6). Can we make any sense of a thought experiment that requires us to abstract from our endowments while retaining preferences which we would not have had, had it not been for these endowments? Secondly, there is an unavoidable trade-off between the specificity of desirability and the specificity of probability. For us to be able to determine how attractive or unattractive we would find a particular endowment of personal resources, the nomenclature of endowments needs to be pretty fine-grained. But the more fine-grained,

the more difficult it is to assign probabilities to them. Thirdly, there is a formidable moral hazard problem. Even supposing people were able to determine the desirability, given their preferences, of all possible endowments, how can one expect them to honestly reveal these preferences?

10 See Van Parijs (2007).

11 See Van Parijs (1991 and 1995, ch.4).

12 For further discussion of the dependency of my stylised picture of the world on the pervasiveness of the market, see especially Sturn & Dujmovits (2000) and my reply in Van Parijs (2001).

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