

I

When John Rawls describes the just society, he clearly imagines that there will be economic disparities among its citizens. In some cases, providing extra prospects to particular individuals can motivate those individuals to behave in ways that are beneficial to all.¹ For example, attaching high salaries or systems of bonuses to careers in medicine and medical research might motivate talented individuals to join those fields or might motivate practitioners to work harder than they would otherwise, thereby improving the quality of life throughout society.² According to the latter part of Rawls's second principle of justice (the "difference principle"), the economic inequalities introduced by such incentives ("incentive inequalities") are permissible as long as the individuals who occupy the worst position in the resulting economic distribution (the "worst-off") are better off in absolute terms than the worst-off individuals under an equal distribution.

In "Incentives, Inequality, and Community," G. A. Cohen argues that the presence of incentive inequalities in the just society is inconsistent with the rest of Rawls's description of that society.³ According to Cohen,

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1. John Rawls, *A Theory of Justice, Revised Edition* (Cambridge, Mass.: Harvard University Press, 1999), p. 68. (Hereafter cited as *Theory*.)

2. The example is meant simply to be illustrative; I do not know whether medical professionals would have their own representative men attending the deliberations in the original position or would be subsumed under a broader class. Still, the example is an interesting one, since the salaries of medical professionals affect the costs of health care and therefore the basic structure's redistributive scheme.

3. G. A. Cohen, "Incentives, Inequality, and Community," in *The Tanner Lectures on Human Values*, vol. 13, ed. G. Peterson (Salt Lake City: University of Utah Press, 1992),

the citizens of the just society display an “egalitarian ethos” that motivates them to make all their choices in the manner that will leave the worst-off members of society as well off as possible.⁴ Equipped with this ethos, members of the just society with the relevant talents do not need economic incentives to join medical professions or work hard at them; their concern for the condition of their fellows supplies all the motivation required.⁵ Since the talented are already working as hard as they can, providing them with economic incentives will not benefit society at large; it will only take money away from other individuals and leave them worse off than they would have been otherwise.⁶ Cohen concludes that because the citizens of the just society display an egalitarian ethos, the difference principle does not authorize any incentive inequalities for that society. The result is a Rawlsian just society that features near-total economic equality.⁷

The most controversial premise of this argument is Cohen’s claim that the citizens of the just society display an egalitarian ethos—that in the productive aspects of their lives they make choices that leave the worst-off as well off as possible. This claim is not just about how hard an individual in the just society works at his job; it is about all the decisions a liberal society allows an individual to make concerning his productive situation: whether he works, at what kind of job he works, in what geographic area he works, at what age he retires, and so on. When an individual makes one of these productive decisions, there will typically be

pp. 261–329. (Hereafter cited as “Incentives.”) Cohen expands upon this argument in “Where the Action Is: On the Site of Distributive Justice,” *Philosophy & Public Affairs* 26 (1997): 3–30. (Hereafter cited as “Action.”)

4. Cohen first introduces the term ‘ethos’ at “Incentives,” p. 315. At “Action,” p. 28 Cohen describes the ethos of society as “the set of sentiments and attitudes in virtue of which its normal practices, and informal pressures, are what they are.” He labels the particular ethos he is describing an “egalitarian ethos” at “Action,” p. 13.

5. Cohen’s example (at “Incentives,” p. 263) is Nigel Lawson’s 1988 decrease of Britain’s top tax rate from 60 to 40 percent. Had the top taxpayers displayed an egalitarian ethos, they would have already been working at top capacity regardless of their level of compensation, so reducing their tax rate would have done nothing to affect their level of productivity.

6. At “Incentives,” pp. 288–93 Cohen takes up the objection that it might be psychologically *impossible* for some individuals to work as productively at a low rate of pay as they would at a higher rate. For most of this article I will simply grant Cohen that if an individual is capable of working at some level of productivity for a high rate of pay, he could *choose* to work at that level for a lower pay rate. We will return to this issue in Section IV.

7. “Incentives,” pp. 269–70.

one option that yields the most economic benefit to the worst-off members of society and a number of other options that do not. If the individual chooses one of the latter options rather than the former, I will say that he “exercises productive latitude.”⁸ When Cohen claims that the citizens of the just society act on an egalitarian ethos, he is claiming that they never exercise productive latitude.

Setting aside the just society for a moment and examining the real societies in which we currently live, those societies are clearly not populated by exemplars of an egalitarian ethos. People often choose better-paying jobs over those that contribute more to society so they can buy themselves nicer houses or fancier cars. Yet not all exercises of productive latitude are selfish acts of income maximization. When an individual makes a productive decision, he may do so in response to any number of different factors (the level of salary on offer, the going tax rate, the desirability of living in the area where the job is offered, and so forth) and for many different reasons (because he finds the job fulfilling, because he wants to provide for his family, because doing the job will help maximize the condition of the worst-off, and so on). As a result, individuals sometimes exercise productive latitude out of considerations central to quite reasonable plans of life. They set their work hours so they can spend time with their families, or work in a certain area to be near an aging parent, or choose a particular job because they believe it is their calling. As Cohen reads Rawls’s just society, its citizens would never make such choices; all personal productive decisions would be dictated by their relation to the economic condition of others.

Where does Cohen get the idea that members of the just society would behave in this fashion? Cohen’s argument is meant to be an *internal* critique of Rawls’s theory of justice: the theory is supposed to imply that

8. The individual who exercises productive latitude certainly need not see his options in these terms; he may be paying no attention to the effects of his actions on the worst-off at all. Rawls also notes that it may be beyond the capacity of the individual to determine the effects of his productive decisions on the economic condition of the worst-off: “Individuals and associations cannot comprehend the ramifications of their particular actions viewed collectively, nor can they be expected to foresee future circumstances that shape and transform present tendencies” (John Rawls, *Political Liberalism* [New York: Columbia University Press, 1996], p. 267. [Hereafter cited as *Liberalism*.]). Still, I think Cohen has a point that individuals can often tell in a broad sense that rent-seeking behavior will be detrimental to others; perhaps in a just society with an egalitarian ethos institutions would exist that helped citizens identify and act in other-directed fashions (see “Incentives,” p. 316).

the citizens of the just society act on an egalitarian ethos, and this is meant to be in tension with Rawls's description of the just society as containing incentive inequalities. (Cohen also offers an *external* critique of economic inequality in just societies, which I will take up in this article's conclusion.)⁹ Perhaps the source of the egalitarian ethos is the difference principle itself. Cohen glosses the difference principle as "Inequalities are just if [and only if] they are necessary to improve the position of the worst off."¹⁰ If we assume that the *just* society contains no *unjust* inequalities, the difference principle rules out the presence in the just society of any inequalities that do not redound to the benefit of the worst-off. Since exercises of productive latitude create such inequalities, citizens of the just society must never exercise productive latitude.

But the difference principle does not forbid the presence in the just society of *any* inequality that harms the worst-off. Although Rawls sometimes offers abbreviated versions that can be misleading,¹¹ he is usually quite explicit that the difference principle does not place restrictions on the private actions of individuals:

The primary subject of the principles of social justice is the basic structure of society, the arrangement of major social institutions

9. Until that conclusion, I am going to proceed on the assumption that Cohen's internal and external arguments against incentive inequalities are independent arguments and may be treated separately. Cohen is not particularly explicit about the fact that they are two independent arguments, but I think we can conclude that from the way he handles them. In "Incentives" Cohen works through the entire external argument with hardly a reference to Rawls (see "Incentives," pp. 279–310). In "Action," on the other hand, Cohen devotes almost all his attention to the internal Rawlsian argument. He mentions the external argument only in the context of a passing discussion about how his arguments might apply to a non-Rawlsian society (see "Action," p. 8).

10. "Incentives," p. 311; I have added the "only if" to take rough account of the points Cohen makes in the footnote at the bottom of that page. Admittedly, the "only if" excludes a small class of inequalities Rawls wants to allow: inequalities that improve the condition of certain non-worst-off members of society without hurting anyone worse off than themselves. However, such inequalities are not central to our argument, so I will ignore the complications they present. (For a discussion of those complications, see "Incentives," p. 266.)

11. For example, at one point Rawls describes the difference principle as demanding that social and economic inequalities "be to the greatest benefit of the least-advantaged members of society" (John Rawls, *Justice as Fairness: A Restatement* [Cambridge, Mass.: The Belknap Press of Harvard University Press, 2001], pp. 42–43. [Hereafter cited as *Fairness*].) Nevertheless, Rawls is usually careful to include most of the relevant caveats somewhere in the textual vicinity of such abbreviations.

into one scheme of cooperation. . . . The principles of justice for institutions must not be confused with the principles which apply to individuals and their actions in particular circumstances. These two kinds of principles apply to different subjects and must be discussed separately.¹²

As the subsequent literature has made quite clear,¹³ the difference principle is meant to apply only to the basic structure of society, and to interpret it as mandating an egalitarian ethos for individuals would be a serious misreading both of Rawls's intent and of the place the principle occupies in his theory.¹⁴ Fully stated, the difference principle runs something like this:

Subject to the restriction of the scheme of basic liberties and fair equality of opportunity, the basic structure of a society should be arranged so as to maximize the expectations of primary goods over a complete life of that society's worst-off representative man.

This makes it clear that even if an individual is motivated by an egalitarian ethos, he is not thereby acting "on" the difference principle. At best, an agent who makes his productive decisions with an eye towards the condition¹⁵ of the worst-off is acting on what I shall call a *correlate* of the difference principle: a principle that directs him to organize his decisions around the same goals that the difference principle specifies for the basic structure of society.¹⁶

12. *Theory*, p. 47.

13. See especially Samuel Scheffler's "Is the Basic Structure Basic?" in *The Egalitarian Conscience: Essays in Honour of G. A. Cohen*, ed. Christine Sypnowich (New York: Oxford University Press, 2006).

14. At "Action," pp. 19–20, Cohen responds to this "basic structure objection" by arguing that the basic structure must include informal, largely noncoercive structures like the family that are constituted by certain behaviors of individuals. (See, for instance, Rawls's discussion of "family law" at *Fairness*, p. 11.) Yet this is not strong enough to establish that *all* individual actions, including all productive decisions, are governed by the two principles of justice.

15. The full statement of the difference principle introduces the wrinkle that, for Rawls, the "economic condition" of individuals should be measured not in terms of monetary net worth but in terms of an index of primary goods. Since nothing crucial to our discussion depends on this wrinkle, I will set it aside and continue to refer to an individual's economic "condition."

16. In note 32 on p. 18 of "Action," Cohen asks "whether the ethos required by justice can be read off the content of the just rules themselves." He wonders if it would be

If the requirement for an egalitarian ethos cannot be located in Rawls's discussions of the difference principle, perhaps it can be located in his discussions of the "sense of justice." Rawls consistently describes the citizens of the just society as having a "normally effective sense of justice"¹⁷ that motivates them to act "from" the two principles of justice. For instance, he describes the capacity for a sense of justice as "the capacity to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice."¹⁸ Individuals in the just society "act on the principles of justice in the ordinary course of events"¹⁹ and "in the course of their daily lives."²⁰ These passages clearly attribute some form of individual action to the members of the just society: not just compliance with the laws laid down by a just system, but further acts of individual support in daily life for the principles behind that system. Yet when Rawls lists the kinds of actions motivated by the sense of justice, they turn out to be quite tame in comparison with Cohen's egalitarian ethos: "First, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves."²¹ Besides compliance with just laws, the main cases Rawls describes in

acceptable, from an egalitarian point of view, for a society to achieve a just distribution while displaying an ethos not directly concerned with egalitarianism, for instance "an intense Protestant ethic" ("Action," p. 14). Ultimately, Cohen comes down in favor of requiring a just ethos read off the just rules themselves. The point I am making here, however, is that one cannot read *any* ethos for individuals directly off the difference principle. Although some interpretive work is needed to generate a correlate of the difference principle (we will return to that task in Section III), it is clear that that correlate must be substantively distinct from the difference principle itself.

17. *Fairness*, p. 9.

18. *Fairness*, pp. 18–19. For more of the "act from" wording, see *Theory*, pp. 225, 416, and 462; *Liberalism*, p. 77; and John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999), pp. 15 and 45. (Hereafter cited as *Peoples*.)

19. *Theory*, p. 222.

20. "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77, no. 9 (1980): 515–72, at p. 528.

21. *Theory*, pp. 293–94. This passage is typical of many of Rawls's descriptions of the level of involvement motivated by the sense of justice. Rawls repeatedly characterizes the sense of justice as motivating the individual simply "to do his part"; see, e.g., *Theory*, pp. 99, 154, and 415. At *Theory*, p. 415 Rawls writes, "A sense of justice gives rise to a willingness to work for (or at least not to oppose) the setting up of just institutions, and for the reform of existing ones when justice requires it."

which the sense of justice comes up are “the case of a citizen deciding how to vote between political parties, or the case of a legislator wondering whether to favor a certain statute.”²² How are individuals motivated to act by the sense of justice in such cases? “As a rational citizen or legislator, a person should, it seems, support that party or favor that statute which best conforms to the two principles of justice. This means that he should vote accordingly, urge others to do likewise, and so on.”²³

Focusing on the passages I have cited in the first half of the previous paragraph, Cohen concludes that “In a well-ordered society each person acts out of a sense of justice . . . not merely at the ballot box but as he goes about his daily business.”²⁴ Thus on Cohen’s reading the sense of justice motivates the citizens of the just society when they make productive decisions and the like. Once we consider the passages in the previous paragraph’s latter half, however, it becomes clear that the most faithful reading of Rawls de-emphasizes his more expansive pronouncements on the sense of justice and restricts its reach to cases of voting and officialdom. In general, I do not think we can read an egalitarian ethos straightforwardly off of Rawls’s descriptions of the just society, whether we focus on the two principles of justice or on his discussions of the sense of justice. To argue that the individuals in the just society must display an ethos that affects their productive decisions is to argue for an addition to Rawls’s theory as he saw it, and a substantial one at that.

Yet there may be good reason to think that such an addition to Rawls’s theory is required, and required on Rawls’s own terms. The strongest part of Cohen’s argument comes when he examines the general features Rawls claims for the just society he describes: stability, mutual respect, fraternity, and psychological plausibility. Although we may not be able to read the presence of an egalitarian ethos directly off of Rawls’s descriptions of the just society, we may nevertheless be able to argue that in order for that society to possess the general features Rawls wants, an

22. *Theory*, p. 294.

23. *Ibid.* One might object that the last three passages I have quoted come up not in a discussion of the sense of justice, but in Rawls’s discussion of how citizens are bound by the natural “duty of justice” to behave towards just institutions. However, as I will explain in Section III, the duty of justice obligates individuals to behave in the same way that the sense of justice motivates them to behave. Thus examining the actions required by the duty of justice can help us determine what the sense of justice comes to.

24. “Incentives,” p. 317.

individual ethos must be added to the society as he describes it. In the next section of this article, I will discuss those general features and argue that they are unattainable without adding some sort of individual ethos to Rawls's theory. Section III will then examine where such an ethos might fit into the overall theory. Once we have an understanding of the best reasons for adding an individual ethos to Rawls's theory and the role that ethos would play in the theory, I will argue in Section IV that these considerations favor an ethos different from the egalitarian ethos Cohen advocates, an ethos that incorporates correlates of both principles of justice in lexical order. Section V will then argue that this kind of individual ethos, which I will call a *full ethos*, permits some exercises of productive latitude. I will conclude that if we want Rawls's just society to display the general features he hoped for it, we may have to add an individual ethos to his theory that restricts the range of permissible comprehensive moral doctrines more than he anticipated. Yet this restriction will not be as strong as the one Cohen suggests, and need not lead to total economic equality in the just society.

II

Arguments for an individual ethos based on general features of Rawls's just society can be sorted into two general types. The first might trace its roots back to a worrying passage in *Theory*.²⁵ In this passage, Rawls imagines that the parties in the original position first select the two principles of justice as the rules for the basic structure, but then when they move on to consider principles for individuals select utilitarianism as the principle of right. Rawls writes, "Even if there is no contradiction in this supposition, the adoption of the utilitarian principle would lead to an incoherent conception of right. The criteria for institutions and individuals do not fit together properly."²⁶ In the imagined situation, the principles of justice would require basic-structure institutions of one type, but the voters and legislators charged with maintaining those institutions would be individually obligated to bring about another type. Rawls concludes, "The choice of the utility principle as the standard for individuals leads to contrary directives. To avoid this conflict it is necessary, at least when the individual holds an institutional position, to choose a

25. *Theory*, pp. 294–95.

26. *Ibid.*, p. 294.

principle that matches in some suitable way the two principles of justice.”²⁷ The conclusion is that whatever natural duty binds individuals in their institutional conduct, it must match up in an appropriate way with the principles for the basic structure. Rawls then continues, “Only in noninstitutional situations is the utilitarian view compatible with the agreements already made.”²⁸

But is it compatible, even then? Is it psychologically plausible that we could be utilitarians in our private lives, but Rawlsian egalitarians (with the requisite sense of justice) when we stepped into the voting booth or showed up in the morning at our government jobs? There are cases in which our institutional roles require us to leave some of our personal beliefs at the door. For example, a religiously orthodox judge might on the one hand maintain his respect for the law when he dons his robes but on the other hand refrain from legislating his religion’s personal conduct prescriptions from the bench.²⁹ But working within a system that does not endorse all of one’s personal principles is very different from working within a system whose organizing principles directly *conflict* with one’s own. It is part of the utilitarian view that the basic structure of society should follow utilitarian principles; this makes it highly implausible that a committed utilitarian could work on an ongoing basis to support and bring about a basic structure organized around the two principles of justice.

Here it is important that Rawls requires the just society to be not only “realistically practicable”³⁰ but also stable over time.³¹ We have all had the experience of stepping into the voting booth and voting for a candidate some of whose principles disagree with our own, perhaps because no candidate who endorses our principles has survived to the general election. But we tend to see this as an attempt to move the basic structure closer to the principles we do endorse, as evidenced by

27. *Theory*, p. 295.

28. *Ibid.*

29. I am grateful to an Editor of *Philosophy & Public Affairs* for suggesting this example and pressing me to address it. One of the major themes of Rawls’s later work (in *Liberalism* and elsewhere) is the possibility that an agent might bring only part of his comprehensive moral doctrine to bear in public attempts to reach an overlapping consensus.

30. *Fairness*, p. 13. See also *Peoples*, pp. 12–13, where Rawls requires of a liberal conception of justice that it be “realistic,” that “it take people as they are (by the laws of nature).”

31. Rawls’s concern with stability begins at *Theory*, p. 6, and carries on throughout his major works.

our voting for the remaining candidate whose principles are closest to our own and (perhaps) by our having voted for a different candidate in the primary. It would be a different matter if we were asked to endorse a structure with which we fundamentally disagreed not as an intermediate stage towards some far-off ideal but as the final arrangement for our society. It might be that individuals could consistently support a basic structure with whose principles they disagreed if they felt that, given the prospects for ongoing political conflict in their society, they were unlikely to get a structure with which they agreed and so were settling for a politically feasible second-best. But this is not how Rawls understands the relation between the citizens of the just society and its basic structure. Rawls is adamant that the basic structure is not just a *modus vivendi*;³² it is important to him that “if we grow up under a framework of reasonable and just political and social institutions, we shall affirm those institutions when we in turn come of age, and they will endure over time.”³³ Rawls does not envision a just society populated by citizens whose personal principles directly conflict with the two principles of justice.

Now consider the fit between an individual’s private productive decisions and his public endorsement of the basic structure. A society whose citizens displayed a sense of justice but no individual ethos would be one whose members supported the two principles of justice in their official capacities but felt no reservations about exercising productive latitude—even to the point of being wholly self-interested maximizers—in the rest of their private lives. Thomas Nagel has argued that “an institutional structure which . . . evoke[s] the requisite partition of motives, allowing everyone to be publicly egalitarian and privately partial” is a “pipe dream.”³⁴ To support the difference principle is to regard one’s natural talents as unearned and undeserving of differential compensation. But how could a medical researcher (for instance) maintain this attitude while demanding special incentives to employ his talents to the benefit of his fellow citizens? Nagel writes that “[t]he . . . problem is that it is difficult to combine, in

32. *Fairness*, pp. 192–95.

33. *Peoples*, p. 7.

34. Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991), pp. 85–86.

a morally coherent outlook, the attitude toward inequalities due to talent which generates support for an egalitarian system with the attitude toward the employment of their own talents appropriate for individuals operating within it. . . . While such a division of motives is not self-contradictory, it is not strictly intelligible.”³⁵ The types of attitudes that lead individuals to support the two principles of justice are not compatible with just any kind of behavior in their private lives. It is psychologically plausible to imagine the citizens of the just society acting on a sense of justice only if we understand this public behavior as a manifestation of a broader set of attitudes that would generate an individual ethos governing private behavior as well.

Generally speaking, one could level this type of argument for an individual ethos at any theory of justice for the basic structure of society: for any set of institutional principles, one could argue that for the sake of psychological plausibility and long-term stability a society featuring those principles would have to contain individuals with a matching ethos. A second type of argument, however, focuses on features Rawls believes his theory of justice provides better than rival theories such as utilitarianism. Rawls is particularly concerned that the just society display mutual respect and fraternity among its citizens, and believes that the presence of the difference principle in the two principles of justice allows justice as fairness to give rise to these qualities in society. Yet Cohen argues that mutual respect and fraternity would be impossible without an individual ethos in the just society.

Rawls writes that “a desirable feature of a conception of justice is that it should publicly express men’s respect for one another. In this way they insure a sense of their own value.”³⁶ Mutual respect in society enhances individuals’ self-respect, and Rawls thinks it would be rational for the parties in the original position to seek to insure the self-respect of those they represent in society. Further, if the principles of justice provide for the self-respect of citizens, this will make it easier for those citizens to support them as the governing principles of society, which in turn will

35. Nagel, p. 117.

36. *Theory*, p. 156.

lead to greater social stability.³⁷ The two principles of justice support self-respect in the following fashion:

The two principles are equivalent . . . to an undertaking to regard the distribution of natural abilities in some respects as a collective asset so that the more fortunate are to benefit only in ways that help those who have lost out. . . . By arranging inequalities for reciprocal advantage and by abstaining from the exploitation of the contingencies of nature and social circumstance within a framework of equal liberties, persons express their respect for one another in the very constitution of their society. In this way they insure their self-respect as it is rational for them to do.³⁸

The difference principle's central role in this affirmation of worth comes up again in Rawls's discussion of the two principles' treatment of individuals as ends in themselves: "To regard persons as ends in themselves in the basic design of society is to agree to forgo those gains which do not contribute to everyone's expectations."³⁹

Cohen argues that the difference principle will fail to provide self-respect in a society without an egalitarian ethos. Imagine that one of the worst-off members of society looks around and sees his fellow citizens demanding economic incentives to do work that will benefit others. A talented individual *could* join the medical profession at a low salary and work to fight disease, but he is refusing to do so unless he receives special compensation. Cohen notes that such people "do exploit their contingent talent and social advantages, and the passage says that people who do that show a lack of the respect for other people that the constitution of their society requires."⁴⁰ On Rawls's own terms, this exercise of productive latitude constitutes a denial of respect for others, and this in turn undermines those others' self-respect. Thus mutual respect arises only in a society in which individuals abstain from exercising productive latitude—that is, in a society with an egalitarian ethos.

37. Rawls does not make this tie between mutual respect and stability quite as explicitly as he could, but I believe it is implied by the fact that his *Theory* discussion of mutual respect comes in the course of a discussion of psychological stability. See *Theory*, pp. 154–55.

38. *Theory*, p. 156.

39. *Theory*, p. 157.

40. "Incentives," p. 319. Cohen refers to the lengthy Rawls passage I quoted in the previous paragraph.

Cohen makes a similar point about Rawls's claim that a society following the two principles of justice will display "fraternity" among its citizens. Rawls claims that "a further merit of the difference principle is that it provides an interpretation of the principle of fraternity,"⁴¹ and Rawls clearly considers fraternity a desirable feature of the just society.⁴² He explains the difference principle's connection to fraternity as follows:

The difference principle . . . does seem to correspond to a natural meaning of fraternity: namely, to the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off. The family, in its ideal conception and often in practice, is one place where the principle of maximizing the sum of advantages is rejected. Members of a family commonly do not wish to gain unless they can do so in ways that further the interests of the rest. Now wanting to act on the difference principle has precisely this consequence. Those better circumstanced are willing to have their greater advantages only under a scheme in which this works out for the benefit of the less fortunate.⁴³

Cohen has the same argument here that he had in the case of mutual respect: "wanting not 'to gain unless they can do so in ways that further the interests of the rest' is incompatible with the drive for enrichment motivating market maximizers."⁴⁴ In a society without an ethos, citizens may express fraternity with others when they go to the ballot box, but they undermine that fraternity with the productive decisions they make in daily life. This is hardly the behavior of members of a society who view each other as something like family.

We now have two types of arguments for adding an ethos to Rawls's description of the just society: first, that the citizens of the just society could not support that society consistently over time unless they displayed an individual ethos; and second, that absent such an ethos the just society would not exhibit the mutual respect and fraternity that Rawls takes to be among its important attractions. Notice that both

41. *Theory*, p. 90.

42. At *Theory*, p. 91, Rawls seems pleased that the two principles of justice can be associated with "the traditional ideas of liberty, equality, and fraternity. . . . Liberty corresponds to the first principle, equality to the idea of equality in the first principle together with equality of fair opportunity, and fraternity to the difference principle."

43. *Theory*, p. 90.

44. "Incentives," pp. 321–22. Cohen makes a similar point at "Action," p. 16.

these types of arguments rely on empirical claims about human psychology: the first type of argument makes claims about the psychological plausibility and stability of a certain type of divided moral outlook; the second makes claims about the feelings citizens would have towards one another in a certain type of society. It may be that these empirical claims are false.⁴⁵ In that case, the argument can end here; there is no reason a Rawlsian just society need contain an individual ethos. Yet we will proceed on the assumption that these arguments have at least some empirical bite, that it is psychologically implausible to suppose that a Rawlsian just society could be stable and exhibit fraternity and mutual respect without some sort of general ethos motivating private behavior. The next questions are what exactly that ethos should look like and where it might fit into Rawls's theory.

III

Cohen argues that members of the just society display an "egalitarian ethos": an ethos that moves its bearers to avoid the exercise of productive latitude. Individuals with an egalitarian ethos act in all areas of their lives in the way most beneficial to the worst-off members of society. Speaking loosely, we can say that Cohen's ethos contains a correlate of the difference principle and nothing else. As an alternative, I propose that members of the Rawlsian just society display what I will call a *full Rawlsian ethos of justice*, or more briefly a *full ethos*. Speaking loosely again, we can say that a full ethos contains not only a correlate of the difference principle, but also correlates of the first principle of justice and the first part of the second principle (concerned with fair equality of opportunity). Importantly, these three components of the full ethos are arranged in lexical order, the same lexical order in which the principles of which they are correlates are arranged in governing the basic structure. Thus, for instance, an individual will be motivated by the full ethos to make productive decisions in a manner that benefits the worst-off only when that requirement does not conflict with the ethos' correlate of the first principle of justice.

45. For my part, I am constantly amazed at the number of my fellow Americans who can read about the antics of certain celebrities and heiresses without taking serious offense that the superrich display so little respect for the less fortunate.

In order to develop this “full ethos” proposal further, we need to investigate two technical aspects of any ethos proposal: how an ethos is structured, and where it might be added to Rawls’s theory of justice. Cohen, who first suggested the need for an individual ethos in Rawls’s theory, is not particularly clear on either of these issues.⁴⁶ So I offer my own proposal for understanding an individual ethos: although the individual ethos and the sense of justice have different content, the formal features of the former should be modeled on the formal features of the latter as Rawls presents them. To the extent possible, we should imagine the ethos as structured the same way the sense of justice is structured, and we should understand the ethos as entering into the theory of justice at the same points, and in roughly the same ways, that the sense of justice does. Under this proposal, the individual ethos could be considered an extension of the sense of justice, taking Rawls’s sense of justice and extending it as necessitated by the two types of arguments described in the previous section.⁴⁷ I believe this way of understanding the individual ethos is the most consistent with Rawls’s general approach and disrupts his overall theory as little as possible.

What do I mean by the “structure” of the sense of justice? The sense of justice is a *motive*, possessed by members of the just society. It motivates those members to act on certain principles.⁴⁸ (I will refer to these principles as the principles “behind” the sense of justice.) These principles are norms for individual action; for instance, they require the individual “to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to [himself].”⁴⁹ Similarly, I think we should understand an individual ethos as a motive that drives the members of the just society to act on certain principles. Above,

46. In fairness to Cohen, this is probably because his ultimate goal in the ethos discussion is not to create a modified Rawlsian view.

47. A small point about how I am using terminology here: in all proposals to add an ethos to Rawls’s theory of justice, the ethos is that which goes beyond the sense of justice. Although one can describe the result of such an addition as an “extended sense of justice,” that “extended sense of justice” is technically composed of the sense of justice and the ethos added on to it.

48. The “principles” terminology is chosen here to match up with Rawls’s discussion of “the morality of principles” in *Theory* §72. Rawls believes that the sense of justice is part of a morality of principles; he describes the process of attaining a sense of justice as “the process whereby a person becomes attached to these highest-order principles themselves” (*Theory*, p. 414).

49. *Theory*, pp. 293–94.

I spoke loosely and described an ethos as “containing” principles. The precise way of putting it is to say that a particular ethos motivates individuals to act on certain principles.⁵⁰ The egalitarian ethos Cohen proposes for members of the just society has only one principle behind it, a correlate of the difference principle. Possessors of the egalitarian ethos are therefore motivated to avoid the exercise of productive latitude. My proposed ethos, the full ethos, has three principles behind it: a first-principle correlate and a correlate for each part of the second principle. These correlates are arranged in lexical order. Thus a member of the just society with a full ethos will be motivated to maximize the condition of the worst-off, but only when that does not conflict with basic liberties or fair equality of opportunity.

What precisely do the principles behind the full ethos direct individuals to do? Let me start with a rough picture, to be filled in further in Section V. Clearly the correlate of the first principle directs that individuals not infringe on the basic liberties of others.⁵¹ But that may not go much further than what is already required by the principles behind the sense of justice, which direct compliance with laws that forbid such infringements. One might think, then, that the inclusion of a first-principle correlate in the full ethos is fairly toothless—that the correlate of the second principle is much more important in directing our interactions with others. But the first-principle correlate plays a crucial role in *limiting* the correlate of the difference principle. On its own, a difference-principle correlate would direct individuals to always take the action (in their productive lives and elsewhere) that would most benefit the worst-off. But the presence of the first-principle correlate and its lexical priority to the difference-principle correlate keep the full ethos from directing such actions when they would infringe on basic liberties. The first principle of justice protects the liberty of conscience; its correlate might allow a young person to go on a religious mission before joining the productive work force. Freedom of occupation is also protected; perhaps

50. I am grateful to Samuel Scheffler for helping me understand the structure of an ethos this way.

51. Here I am concerned with infringements inconsistent with “a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all,” not with those infringements permitted by that scheme (e.g., infringements of one liberty for the sake of another). For the “scheme” phrasing of the first principle of justice and an explanation of that term, see *Liberalism*, pp. 291 and 331ff.

a talented individual who could best benefit society by becoming a doctor chooses a career in the arts that she finds more fulfilling. Both of these actions would be consistent with a full ethos of justice.

Next, we need to see how the principles behind the full ethos fit into Rawls's theory as a whole. As I have already suggested, we should answer this question by first examining the role in Rawls's theory of the principles behind the sense of justice. Interestingly, these principles appear at two distinct points in the theory. First, and most importantly, the principles behind the sense of justice factor into a crucial step of the parties' deliberations in the original position. One of Rawls's main requirements for the just society is that it be well ordered. Among other things, a well-ordered society is "regulated by its public conception of justice. This fact implies that its members have a strong and normally effective desire to act as the principles of justice require."⁵² This requirement exists prior to any arguments from the original position thought-experiment;⁵³ in fact, one of the major goals of that thought-experiment is to help us find a conception of justice that will create a well-ordered society.⁵⁴ This desideratum dictates an important step in the selection of principles in the original position. Before the parties can settle on principles of justice, they must check that those principles will create a society in which a motive to act on the principles behind the sense of justice will be psychologically possible and intergenerationally stable for everyone. Rawls writes that "the selection of principles by the parties in the original position is always to be preceded by a careful consideration of whether the psychology of learning by citizens in well-ordered liberal societies leads them to acquire a sense of justice."⁵⁵ Notice that the parties do not choose whether the society resulting from their deliberations will feature a sense of justice. Instead, the parties are told that the just society must foster a sense of justice; they then select the principles of justice accordingly.⁵⁶

52. *Theory*, p. 398.

53. "An important question about a conception of justice for a democratic society is whether, and how well, it can serve as the publicly recognized and mutually acknowledged conception of justice. . . . A political conception of justice that could not fulfill this public role must be, it seems, in some way seriously defective" (*Fairness*, p. 9).

54. "Justice as fairness is framed to accord with this idea of society" (*Theory*, p. 397).

55. *Peoples*, p. 45. Rawls himself presents such a "careful consideration" in *Theory* §29.

56. Let me clarify the thought-experiment I am suggesting the parties undertake. The parties imagine a society containing adults who possess a sense of justice, then ask whether

The principles behind the sense of justice also pop up in a second place in Rawls's framework, although this appearance is much less important to the overall theory. After selecting the principles of justice for basic structure institutions, the parties in the original position move on to consider principles for individuals.⁵⁷ As part of the latter process, the parties settle on a "fundamental natural duty" called "the duty of justice." The duty of justice makes it morally obligatory to act on the principles that lie behind the sense of justice: "This duty requires us to support and to comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves."⁵⁸ Notice that here we are discussing not what principles the members of the just society would in fact be motivated to act on, but what principles any of us in any society *should* act on whatever our motives are like. Rawls believes this second question should be settled by the parties in the original position,⁵⁹ and that part of what they would settle on are the principles behind the sense of justice.

Pursuing the analogy to the sense of justice, then, my full ethos proposal would work within Rawls's theory like this: The parties in the original position are told not just that the principles of justice they select will be supported by members of the just society in the ballot box and in official positions, but also that members will act on correlates of those principles in their daily lives.⁶⁰ The parties choose Rawls's two principles of justice as the principles for the basic structure of the just society, on the basis of roughly the same kinds of arguments Rawls suggests. The

the presence of the principles of justice in the basic structure of such a society will allow those adults to maintain that sense of justice and foster it in future generations. One might consider a different thought-experiment, in which the parties imagine individuals in society with a *capacity* for a sense of justice and then ask whether the principles of justice would cause such individuals to realize that capacity and develop a sense of justice. While Rawls's discussion of individuals' "developing" a sense of justice may be ambiguous between these two thought-experiments, I believe the former is more consistent with his general focus on ideal theory (as opposed to the transition from nonideal to ideal societies). I am grateful to Samuel Scheffler for pressing me to clarify this point.

57. See *Theory* §§18–19.

58. *Theory*, p. 99.

59. "The principles that hold for individuals, just as the principles for institutions, are those that would be acknowledged in the original position" (*Theory*, p. 99).

60. Moreover, that the members will act on correlates of *all* the principles selected for the basic structure, not just one of them or part of one (as Cohen suggests).

main difference occurs when the parties get around to considering the issues of psychological plausibility, stability, fraternity, and mutual respect within their chosen society. They now have to check for those features in a society that displays not only a sense of justice, but also a full ethos motivating individuals to act on principles that are correlates of the principles of justice chosen by the parties. I will argue in the next section that the modified theory passes these checks; it is plausible that the resulting society has all the features Rawls requires of the just society, and thus responds to the two types of arguments described in Section II. Having selected their principles for institutions, the parties then move on to select principles for individuals.⁶¹ I will also argue in the next section that it is plausible that the parties would select the principles behind the full ethos as natural duties for individuals.

IV

We now need to show that adding a full ethos to Rawls's just society (or more precisely, to the motivational set of the citizens of that society) responds to the two types of arguments presented in Section II. That is, we need to show that the resulting society is psychologically plausible and possesses the stability, fraternity, and mutual respect Rawls imagines for the just society. Moreover, we need to show that a full ethos fares better along these lines than the egalitarian ethos Cohen proposes.

I think it is easy to see that the full ethos ameliorates the plausibility and stability concerns that arise in the first type of argument. The concern there is that it is psychologically implausible to imagine individuals' being motivated by one set of principles in their official capacities as citizens and by a conflicting set of principles in their personal lives. Although such an arrangement might be workable on a temporary basis, Rawls views the just society as an ongoing stable solution. The full ethos remedies this problem by bringing the principles that motivate citizens of the just society in their private lives as close as possible to the two principles that govern the basic structure of that society—the same two principles those citizens work to promote in their official capacities.

Admittedly, the principles behind the full ethos are correlates of the two principles of justice, and thus are not precisely identical to them. But

61. I am skipping over the four-stage sequence by which the principles of justice are instituted by the parties in the just society. See *Theory* §31.

as we saw in Section I, this must be the case, for the two principles of justice are not applicable to individual action. Certainly the full ethos brings the principles behind individuals' motives for personal action much closer to the two principles of justice than they would be in a society with no ethos or in a society with an egalitarian ethos. I believe the remaining discrepancy would not cause serious psychological tension, for two reasons: first, the discrepancy is very small, and is no larger than is absolutely necessary given the structure and the range of applicability of the principles involved; second, and more importantly, the members of the just society will recognize that the two principles of justice and the principles behind the full ethos realize the same set of values, applying those values differently only because they are being applied to different spheres (the basic structure versus individual action). This recognition of a common set of values behind the two sets of principles keeps them from being in any serious kind of conflict with each other.⁶²

The idea of a set of values behind the principles of justice will also play a key role in my reply to the second kind of argument (concerning fraternity and mutual respect). To prepare us to examine those values, I want to take a slight detour and address an issue that came up in the last section. The full ethos proposal includes a claim that when they get around to considering principles for individuals, the parties in the original position will endorse the principles behind the full ethos as a natural duty for citizens and not the principles behind Cohen's egalitarian ethos. I now want to defend that claim.

To understand why the parties would choose principles for natural duty that include a first-principle correlate and give it lexical priority over the correlate of the second principle, we need to ask why they give the first principle of justice priority over the second principle in the basic

62. There is another consideration of psychological plausibility that, while it does not tell in favor of adding an ethos to Rawls's theory in general, does I think tell in favor of adding a full ethos instead of an egalitarian ethos. In a note in Section I we raised the question of whether it is psychologically possible for an individual to maintain as high a level of productivity when he is motivated by his contribution to the common good as he would maintain when motivated by a direct economic incentive. (This is, of course, a classic question for Marxist schemes.) I think it is more plausible that an individual could be motivated in this way if some concessions had already been made to his strongest personal commitments, the types of concessions that a full ethos affords but that are denied by Cohen's egalitarian ethos.

structure to begin with. In some political theories, restrictions on institutional coercive force are justified on the basis of principles about the limited legitimate extent of government. Yet in Rawls's theory the parties in the original position secure the basic liberties in order to *promote* something, not to *prevent* something. The parties take the members of the just society to possess two essential "powers of moral personality . . . the capacity for a sense of right and justice . . . and the capacity for a conception of the good."⁶³ Certain freedoms are central to the citizens' ability to maintain and exercise these two moral powers; these freedoms are singled out as the basic liberties and given special protection by the parties.⁶⁴ Rawls writes that "these liberties and their priority are to guarantee equally for all citizens the social conditions essential for the adequate development and the full and informed exercise of these powers."⁶⁵ Because the two moral powers are essential to our ability to participate in social cooperation in a just society,⁶⁶ and because the basic liberties are essential to our possession of the two moral powers, the parties in the original position refuse to restrict the basic liberties for the sake of anything else. In particular, they avoid restricting the basic liberties for the sake of distributive concerns like those embodied by the difference principle. Thus the parties give the first principle of justice lexical priority over the second.

Take, for instance, the liberty of conscience. The second moral power, the capacity for a conception of the good, is defined by Rawls as "the capacity to form, to revise, and rationally to pursue such a conception, that is, a conception of what we regard for us as a worthwhile human life."⁶⁷ For many citizens, a crucial part of forming, revising, and pursuing their plan of life is a commitment to certain religious or philosophical doctrines. To protect such commitments on the part of the citizens

63. *Liberalism*, pp. 301–2.

64. I think the fact that in Rawls's theory the basic liberties are secured to achieve some purpose partially accounts for the legitimacy of government's *regulating* them (although not *restricting* them). "For example, rules of order are essential for regulating free discussion. Without the general acceptance of reasonable procedures of inquiry and precepts of debate, freedom of speech cannot *serve its purpose*" (*Liberalism*, p. 296, emphasis mine. See also *Theory*, p. 178). Instead of keeping its hands off of them, government can by careful regulation increase the positive value of liberties for its citizens.

65. *Liberalism*, p. 332.

66. See *Liberalism*, p. 301.

67. *Liberalism*, p. 302.

whom they represent, the parties protect the liberty of conscience in the first principle of justice. The parties understand the seriousness and importance of such commitments for individuals who have them: "It is fundamental that affirming such views and the conceptions of the good to which they give rise is recognized as non-negotiable, so to speak. They are understood to be forms of belief and conduct the protection of which we cannot properly abandon or be persuaded to jeopardize for the kinds of considerations covered by the second principle of justice."⁶⁸ For Rawls, anyone who thinks that religious commitments can be traded for economic advantages does not truly understand the place of religion in individual lives.⁶⁹ To take an example: It might very well be economically efficient for a society to contain only one religion. Resources would be saved because only one church would be needed in each neighborhood; energies that would otherwise be devoted to interfaith debates and proselytization could instead be channeled into greater economic production. Under the two principles of justice, however, a government is not allowed to restrict religious practice to achieve these economic gains, even if the increased production would be channeled to the economically worst-off. Admittedly, this is a simplistic and rather extreme example (we will consider more subtle cases in Section V below), but it dramatizes the point: the lexical order of the two principles prevents the basic structure from obtaining economic advantages by means that would seriously curtail individuals' abilities to form, revise, and pursue individual plans of life.

Now consider the case of natural duties for individuals. As Rawls describes the parties' deliberations when it comes time to select the principles for natural duty, the main concern driving their selection is stability: "It is important that the principle defining the duties of individuals be simple and clear, and that it insure the stability of just arrangements."⁷⁰ If the arguments of Section II are correct, that stability cannot be guaranteed by individuals' adherence to the principles behind the sense of justice. Thus it seems plausible that the parties go beyond those principles and endorse a set of principles for natural duty that underwrites an individual ethos. But which ethos is that?

68. *Liberalism*, p. 312. See also *Theory*, p. 182.

69. *Fairness*, p. 105.

70. *Theory*, p. 296.

It would be curious if, having gone to the trouble of ensuring that governments do not restrict individuals to a single religion for the sake of economic efficiency, the parties in the original position chose principles for individual duties that required individuals to so restrict *themselves*. If the only principle of natural duty were a difference-principle correlate, individuals would be duty-bound to choose their religious practice in a way that maximized the economic condition of the worst-off. But Rawls argues that the parties must “regard themselves as having moral or religious obligations which they must keep themselves free to honor. . . . These obligations are self-imposed; they are not bonds laid down by this conception of justice.”⁷¹ Notice that the religious commitments in question are given prior to the agreement in the original position, and are therefore not informed by the conception of distributive justice established by that agreement. The parties know that the members of the just society may have such commitments, and that those commitments may develop from personal considerations distinct from difference-principle concerns. Taking the exercise of the moral powers as a “highest-order interest,”⁷² the parties thus carve out a space for individuals to develop and pursue philosophical and religious commitments without attention to economic distribution. They place a correlate of the first principle of justice in the principles for natural duty and give that correlate lexical priority over the correlate of the second principle, thereby granting moral permission for individuals to honor their religious obligations even when this would damage the condition of the worst-off. In short, the parties select the principles behind the full ethos over the principles behind the egalitarian ethos.

This consideration of the parties’ reasoning in the original position prepares us to see how the presence of a full ethos in the just society could be compatible with fraternity and mutual respect among its members. Fraternity and mutual respect are supposed to be based on the worst-off individuals’ understanding that everyone in society has agreed to “forgo those gains which do not contribute to everyone’s expectations.”⁷³ Yet in Rawls’s system as he describes it there are two

71. *Theory*, p. 180.

72. *Theory*, p. 160.

73. *Theory*, p. 157.

exceptions to this agreement. Cohen has noted the first one: without an individual ethos, the difference principle allows for a variety of self-interested behavior that fails to contribute to the good of all. There is another exception, however: gains are required to be mutually beneficial only when this requirement is consistent with the protection of the scheme of basic liberties. If we look back at the lengthy quote from *Theory*, p. 156 in Section II, we see that “persons express their respect for one another” by “arranging inequalities for reciprocal advantage . . . *within a framework of equal liberties*” (emphasis mine). Cohen complains that exceptions to reciprocal advantage due to self-interested personal behavior will undermine mutual respect and fraternity; Rawls seems not to have seen, or to have seen but not addressed, that complaint. Yet Rawls was clearly aware that adherence to strict reciprocal advantage would sometimes be compromised by the priority of the basic liberties.⁷⁴ How could he nevertheless maintain that his just society would display fraternity and mutual respect?

The key, I think, is that all members of the just society, including the worst-off, understand and accept the values that underlie the basic liberties’ lexical priority. Rawls repeatedly emphasizes that the sense of justice is not just a “blind obedience to arbitrary principles.”⁷⁵ The considerations that motivate the parties in the original position are considerations that ordinary individuals in the just society also find compelling: “The conception of political justice the parties would select is the conception that you and I, here and now, would regard as

74. In his discussions of reciprocal advantage, Rawls is usually careful to make this restriction clear, putting in caveats like “there is a sense” or “in some respects” before his proclamations of universal benefit (see *Theory*, p. 154, for the former and *Theory*, pp. 87 and 156, for the latter). When he leaves these caveats out, it is usually because he is in the process of comparing the difference principle’s distributive effects to those of the principle of utility. This is evident in the lengthy passage from *Theory*, p. 90, cited earlier (Section II) on fraternity in the family, as well as at *Theory*, p. 157. The comparison Rawls emphasizes in these passages is between utilitarianism, which assigns the worst-off an even worse-off place in a variety of circumstances in which this would benefit others, and the difference principle, which almost never makes such instrumental use of the worst-off. Since he is emphasizing the *contrast* between the two views, Rawls sometimes leaves out of his discussion a condition that would allow the position of the worst-off to be ignored: the condition that the scheme of basic liberties be guaranteed first.

75. *Theory*, p. 417.

reasonable and rational and supported by the best reasons.”⁷⁶ Thus the citizens of the just society value the two moral powers of persons and endorse their primacy within the society’s conception of justice. The citizens therefore further agree that the basic liberties, with their central role in securing the two powers, must be protected before economic distribution is attended to. Suppose one of the worst-off looks around and sees that the plurality of religion in his society is preventing economic efficiencies that would redound to his financial good. Why doesn’t this arrangement, which fails to contribute to his expectations, make him feel a loss of fraternity and mutual respect? Because he is committed to principles of justice that aim at achieving a certain end, the expression of all individuals’ “common nature” as “free and equal rational beings.”⁷⁷ Given the primacy of the two moral powers, a plurality of religious options is more important to individuals’ nature as free and equal rational beings than is the distribution of wealth. Thus the worst-off individual’s suboptimal expectations are due not to a lack of respect for him, but to the fact that proper respect for all demands attention to a higher need than his own.⁷⁸

Similar reasoning explains why an exercise of productive latitude permitted by the principles behind the full ethos would not undermine fraternity and mutual respect. Rawls suggests that “the denial of freedom of movement and occupation” would violate “the liberty and integrity of the person.”⁷⁹ Thus the government is prevented by the first principle of justice from assigning individuals to particular occupations for the sake of economic efficiency. Yet while the first principle concerns what society must leave individuals free to do, the ethos concerns what individuals do with that freedom. So suppose that a citizen of the just society

76. *Peoples*, p. 30. This kind of understanding and acceptance seems crucial to what Rawls calls “stability for the right reasons” (*Peoples*, pp. 12–13). Part of the just society’s educative function is to raise citizens who understand the ideals behind their society’s political conception of justice (*Peoples*, p. 15).

77. *Theory*, p. 417. See also *Theory*, pp. 222 and 418.

78. I am assuming, as Rawls does, that the just society functions under “reasonably favorable conditions” (see *Liberalism*, p. 297). Restrictions on religious practice for material reasons might very well be permissible in seriously adverse economic situations, for instance under conditions of widespread starvation. Notice, however, that in such cases the restrictions are permissible because of the dire threat posed by the economic situation to the moral powers of persons.

79. *Liberalism*, p. 335.

motivated by a full ethos takes advantage of his legally protected freedom of occupation to choose a job that honors his personal commitments but that does not contribute to economic efficiency in the way that would most benefit those who are financially worst-off; perhaps a social worker whose services are most needed in a nearby city decides instead to work in his hometown. How should this choice be viewed by someone whose prospects are damaged as a result?

We have supposed that, like everyone else in the just society, the worst-off support a basic structure that makes the first principle prior to the second and therefore provides the social worker with this liberty. The worst-off support this arrangement because they assign the highest priority to individuals' ability to develop and pursue their own plans of life, as determined in part by those individuals' personal commitments and aspirations. Describing the second moral power, Rawls writes that an individual's conception of the good typically includes "desires that certain persons and associations, as objects of attachments and loyalties, should flourish."⁸⁰ If a worst-off individual truly values everyone's two moral powers, and if he truly believes that allowing individuals to choose their occupation on the basis of such nondistributive concerns is more central to maintaining those two powers than is economic equality, he may feel disadvantaged but he cannot feel *wronged* by the social worker's decision. The social worker and the worst-off individual share respect for each other, and they share a common value system.⁸¹ According to that value system, both agree that it is more important that the social worker choose his job on the basis of personal commitments central to his plan of life than it is that the worst-off individual's economic prospects be improved. The same values that make the lexical priority of the first principle acceptable to the worst-off individual despite some loss of reciprocal advantage make certain exercises of

80. *Liberalism*, p. 302. Rawls immediately continues, "Also included in such a conception is a view of our relation to the world—religious, philosophical, or moral—by reference to which these ends and attachments are understood." This makes clear that the attachments and loyalties in question have the same status as an individual's religious obligations: they are prior to considerations from the original position.

81. This is not to say that the social worker and the worst-off individual share a comprehensive moral doctrine. It is just to say that their respective moral doctrines yield an overlapping consensus that supports the values behind the principles of justice, values that place a high priority on securing the two moral powers of persons.

productive latitude acceptable to him as well.⁸² There is no violation of fraternity, and no violation of mutual respect.⁸³

v

For a committed Rawlsian, it is tempting to see Cohen's arguments as a simple misreading of two principles of justice intended for the basic structure; an ethos for individuals can seem like the kind of thing that has no place in Rawls's theory. Yet Cohen has identified a genuine tension in Rawls: on the one hand, we have Rawls's focus on the basic structure of the just society and his reticence to require much of the private lives of its citizens; on the other, we have Rawls's descriptions of that society's character and long-term stability. Cohen's central point is that maintaining a society of that character on a permanent basis is more demanding of the private lives of citizens than Rawls wants to admit. One response to this tension might be to de-emphasize Rawls's more expansive passages describing the virtues of the just society, emphasizing instead Rawls's specific pronouncements about the requirements on its citizens.⁸⁴ The result would be an adherence to the official Rawlsian doctrine that the just society requires no more of its citizens than motivation by a sense of justice. In this article, however, we have pursued a different approach, acknowledging both that Rawls saw qualities like fraternity and mutual respect as significant attractions of his just society and that given plausible psychological assumptions, these qualities could not be achieved without some sort of pervasive individual ethos. I have argued that these considerations favor adding an ethos to Rawls's account of the

82. One could always argue that the lexical priority of the first principle itself makes mutual respect impossible—that, as an empirical fact, the values behind that priority would never be endorsed by the worst-off, even in a society under reasonably favorable conditions. That would be a much broader charge against Rawls's conception of the basic structure than we are considering here.

83. A Cohen proponent might argue at this point that a member of the just society *should not* have (or may have but should not honor) personal commitments that are at odds with distributive concerns. But that is just to argue that the members of a just society should display an egalitarian ethos rather than a full ethos. Cohen's motivation for introducing the egalitarian ethos is to ensure fraternity and mutual respect in the just society. If those features can be guaranteed by a full ethos rather than an egalitarian ethos, there is no argument internal to Rawls's theory for demanding that the members of the just society avoid personal nonegalitarian commitments.

84. Cohen considers something like this move at "Incentives," p. 322, and "Action," p. 17.

just society, though not the precise ethos Cohen recommends. I have also argued that we can find a natural place for this ethos in Rawls's theory, introducing it as a sort of extension of the sense of justice.

The key feature of the full ethos I have defended is that it involves correlates of both principles of justice, arranged in lexical order. As we saw in Section III, the first-principle correlate creates *exceptions* to the second-principle correlate; its lexical priority means that individuals motivated by a full ethos may develop and pursue their individual conceptions of the good even when that pursuit is to the detriment of the condition of the worst-off.⁸⁵ But how far do these exceptions go? This is a difficult issue, but we should note that it parallels an issue already present in Rawls's discussion of the basic structure and the two principles of justice. Earlier we saw an extreme example of a conflict between a basic liberty and distributive concerns: the lexical priority of the first principle forbids a government from restricting its citizens to a single religion for the sake of economic efficiency. But now consider the opposite extreme: suppose I want to forgo paying any taxes (or at least any taxes used for redistributive purposes rather than the defense of basic liberties) so that I can use the money to go on a worldwide spiritual quest and sample every extant religion. Rawls would not want the priority of the first principle to create such an extreme exception to the requirements of the second. The crucial question, then, is where to find the proper balance in between. We can see this question in many of the controversies of contemporary liberal nations (over tax breaks for religious organizations, whether churches can discriminate in their hiring practices, whether companies must respect their employees' sabbath days, et cetera);⁸⁶ it would surely have to be settled in the just society.

85. The closest Cohen comes to addressing something like a full ethos proposal is in "Incentives," p. 314, n. 31. There he argues that "[i]t would be a mistake to think that the priority of liberty over the difference principle makes for" a compromise between self-interest and the claims of equality, because "we are not here concerned with coercive restrictions, in the name of justice, on [an individual's] liberty, but with what would count as a just use of his liberty." While it is true that the first principle does not place the relevant restrictions on an individual's use of his liberty, neither does the difference principle; as we have seen, both are directed exclusively at the basic structure. The entire point of our argument is that the reasons for granting the first principle priority are also reasons for creating exceptions to the difference-principle correlate's demands on the private behavior of individuals, and thus on the ways in which they employ their liberties.

86. I am grateful to an Editor of *Philosophy & Public Affairs* for suggesting some of these examples.

Moreover, religious freedom is just one of the basic liberties for which this balance would have to be struck.

A similar question of balance confronts the full ethos, and the types of exceptions its first-principle correlate creates to the second-principle correlate's demand that individuals attend to the condition of the worst-off in making productive decisions.⁸⁷ To fully address this question—or the parallel question of balance for the two principles of justice—would take another whole article if not a book-length treatment.⁸⁸ Still, there are a few comments we can make on its resolution here. First, I think it is clear that the inclusion of a first-principle correlate that is lexically prior to the difference-principle correlate will permit individuals motivated by a full ethos at least some exercises of productive latitude. To appropriate Rawls's phrase, the principles behind the full ethos regard individuals as having personal obligations that those principles must keep them free to honor. Surely some of the productive decisions we listed in Section I are essential to conceptions of the good in the required way. Choosing where to work, for how long to work, and even how hard to work will play a central role in individuals' capacity for a conception of the good. Thus a full ethos will not motivate members of the just society to make *all* productive decisions with the condition of the worst-off in mind; members will make at least some such decisions on the basis of more personal concerns.

In other words, a Rawlsian just society whose basic structure adhered to the two principles and whose citizens acted on both a sense of justice and a full ethos would feature exercises of productive latitude. As a result, such a society might also feature incentive inequalities. Cohen's argument for near-total economic equality in the just society is based on the assumption that citizens of such a society would act on an egalitarian ethos and so gear every productive decision towards the economic condition of the worst-off. A full ethos allows citizens of the just society to

87. Of course, there are further questions we could ask about the content of the full ethos. For example, we might wonder whether a full ethos motivates an individual not just to avoid infringing on the liberties of others, but also to take positive steps to *promote* the moral powers of his fellows. (Would a full ethos move individuals to aid others in developing and pursuing their plans of life?) I have focused on the question of balance between the two principle correlates because it is most relevant to determining the extent of incentive inequalities in the just society.

88. These matters are not, for instance, conclusively settled by Rawls's extensive lecture on "The Basic Liberties and Their Priority" in *Liberalism*.

deviate from that goal at times, and thus introduces the possibility that the just society would feature income inequalities. Take our social worker who would rather work in his hometown than in the nearby city where he could do more good. If the salary for the city position were increased so that he could afford to live in his hometown and commute to work each day, he might become willing to choose that job instead.⁸⁹ The difference principle would authorize this economic incentive because of its positive effects on the condition of the worst-off city-dwellers who would benefit from the social worker's attentions.⁹⁰

We have concluded that the first-principle correlate creates enough exceptions to the requirements of the second-principle correlate to permit some exercises of productive latitude and perhaps introduce incentive inequalities into the just society. I do not have much more to say at this point about the precise extent of those exceptions, except to say that any further discussion of that extent must begin with Rawls's account of what the basic liberties are *for*. It is important to Rawls that the first principle of justice is not about maximizing some abstract quantity called "liberty."⁹¹ Instead, the first principle provides a specified list of particular liberties intended to "guarantee equally for all citizens the social conditions essential for the adequate development and the full

89. Note that this is not a "special burdens" case of the type Cohen addresses at "Incentives," pp. 296–97. The example is not meant to be set up so that if the social worker took the job in the city at the same rate of pay on offer in his hometown, his condition would be so damaged as to leave him among society's worst-off.

90. Let me be clear: I am *not* suggesting that productive latitude is some sort of perk conferred exclusively on the specially talented by the difference principle. In the just society, everyone would be motivated by the full ethos and most would engage in exercises of productive latitude, at times making decisions based on their own personal commitments rather than on the economic condition of the worst-off. This would create a mixed assortment of productive decisions society-wide, in contrast to the lockstep global adherence to the cause of the worst-off that Cohen imagines. The complex interactions that would result might create opportunities for the basic structure to improve the condition of all by disproportionately allocating resources to some, as when the salary incentive paid to our social worker allows him to honor his personal commitments while benefitting the worst-off at the same time.

This discussion also addresses the question of whether I intend the difference principle to be interpreted in a "lax" or "strict" fashion (to use Cohen's terminology at "Incentives," pp. 312ff). Under the full ethos proposal I am offering, the difference principle would permit only those inequalities in the just society whose benefit to the worst-off arose from behavior consistent with the principles behind the full ethos.

91. See *Liberalism*, pp. 291–92.

and informed exercise of” the two moral powers of persons.⁹² A good example is Rawls’s discussion of the right to personal property.⁹³ Rawls sees a need for “a sufficient material basis for a sense of independence and self-respect, both of which are essential for the development and exercise of the moral powers.” Thus the first principle protects a narrow set of personal property rights, but does not endorse some broader conceptions of personal property. For instance, the first principle does not give individuals the power to bequeath their possessions as they see fit. Rawls argues, “These wider conceptions are not used because they cannot, I think, be accounted for as *necessary* for the development and exercise of the moral powers” (emphasis mine).

Similarly, although the first-principle correlate behind the full ethos will make room for some productive latitude, it will not endorse productive decisions that go beyond what is “necessary for the development and exercise of the moral powers.”⁹⁴ There will be occasions on which an individual has some desire to make a productive choice beneficial to his personal interests, yet his full ethos moves him to set aside those interests in favor of the option that best benefits society’s worst-off. A doctor motivated by a full ethos might hold out for a higher salary so he can buy a car large enough to fit his family, but he will not hold out for a car that accelerates with extra zip and performs exceptionally on tight turns. The principles behind the full ethos allow an individual to set aside the economic condition of others only so that he may perform actions *essential* to his capacity to develop and pursue a conception of the good. This means that those principles will require a substantially higher level of other-regarding action and social consciousness than we typically see in capitalist democracies today.

It also means that the full ethos places a significant restraint on the range of conceptions of the good, plans of life, and comprehensive moral

92. *Liberalism*, p. 332.

93. The discussion in question, and the passages that follow, are from *Liberalism*, p. 298.

94. At one point in his discussion of the first principle of justice and the limits it places on the redistribution of primary goods, Rawls discusses an example much like my globe-trotting soul-seeker example above. He argues against diverting resources to religious pilgrims or builders of magnificent cathedrals on the grounds that this would be “socially divisive” (*Liberalism*, p. 329). I have not devoted much attention to this consideration because it strikes me as somewhat circular in the present context. We are trying to understand the individual ethos present in the just society; what types of behavior will be socially divisive in that society will depend heavily on the content of the ethos that pervades it.

doctrines present in the just society.⁹⁵ If the individual ethos is to function like the sense of justice, it must be affirmed by an overlapping consensus of all the comprehensive moral doctrines present in the just society (that is, of all the comprehensive moral doctrines the theory of justice deems reasonable).⁹⁶ The content of the sense of justice limits the range of possible doctrines that could participate in such a consensus, and the full ethos limits that range even more. Yet this may simply be the price we must pay to achieve stability, mutual respect, and fraternity in the just society. Notice that the full ethos is much less restrictive on this front than Cohen's egalitarian ethos. Any comprehensive moral doctrine consistent with the egalitarian ethos is also consistent with the full ethos,⁹⁷ but the egalitarian ethos is inconsistent with a number of comprehensive doctrines that place an emphasis on personal obligations, an emphasis perfectly consistent with the full ethos. Since the full ethos adequately addresses the concerns that led us to require an individual ethos to begin with, Rawlsians and liberals in general should see it as a more attractive option than the egalitarian ethos on grounds of increased pluralism.

VI

I want to conclude by considering two advantages of a theory of the just society that begins with Rawls's official pronouncements and then adds a full ethos. First, to this point we have confined our attention to Cohen's internal critique of Rawls: Cohen's argument that Rawls's defense of incentive inequalities fails on Rawls's own terms. Cohen also offers a

95. Does the idea of an ethos for individuals thereby violate Rawls's position that distinct principles are needed for individuals, associations, domestic political structures, and international relations? (See, for instance, *Fairness*, p. 14.) I think not. As I have emphasized, the principles behind both the egalitarian ethos and the full ethos are distinct from the two principles of justice. Admittedly, they are principles for individuals whose content is largely dictated by the principles for institutions. Yet principles like that were already present behind Rawls's sense of justice. If the arguments in Section II concerning psychological plausibility and stability are correct, there must be some degree of fit between the principles for individuals and the principles for the state. But that does not collapse the individual moral realm into the political.

96. *Fairness*, pp. 32–33.

97. Such a comprehensive moral doctrine does not allow for any personal obligations that trump distributive concerns. The full ethos does not demand that one have such obligations; it simply motivates individuals who do have these obligations to place priority on them in certain situations.

more general argument against incentive inequalities in “Incentives, Inequality, and Community.” This argument springs from Cohen’s conviction that a democratic society should display “justificatory community”; that is, that any action by one member of the society should be justifiable to other members whom it affects. Cohen does not see how an exercise of productive latitude could possibly be justified to one of the worst-off individuals whose condition it harms. Thus exercises of productive latitude are not appropriate in a democratic society, and policies that create incentive inequalities to harness them are not “comprehensively justified” and should not be enacted.⁹⁸

It seems to me, however, that there are many productive decisions individuals in a democracy should be able to make on personal terms despite the resulting inegalitarian distributive effects. As supplemented by a full ethos, Rawls’s theory endorses this intuition while providing an answer to Cohen’s justificatory challenge. Rawls agrees with Cohen that members of a society should be able to justify their decisions to each other: in discussing the duty of mutual respect, Rawls writes, “When called for, reasons are to be addressed to those concerned; they are to be offered in good faith, in the belief that they are sound reasons as defined by a mutually acceptable conception of justice which takes the good of everyone into account.”⁹⁹ Yet if Rawls is right about the just society, the conception of justice affirmed by all its members—including the worst-off—ranks the ability to honor certain personal commitments as more central to individuals’ good than their economic condition. A worst-off individual who understands the reasoning behind the basic structure of his society will accept certain exercises of productive latitude by others as justified, for both he and they will see the actions in question as more important to the exerciser’s plan of life than the marginal economic status involved is to the worst-off’s good. It may be that by demanding a higher salary to work in the city, our social worker is taking money away from his agency that could be distributed to the worst-off if he would do the same job for a lower wage. Yet the social worker could make a case to the worst-off that whatever extra goods they might buy with that money would be less significant to their plans of life than the opportunity to

98. See “Incentives,” pp. 279–310. The foregoing is, of course, a very rough summary of Cohen’s argument.

99. *Theory*, p. 297.

spend time with his family and friends is to his. This strikes me as a plausible justification one member of a democratic society could offer to another for an exercise of productive latitude.

This brings us to the second general advantage of Rawls's theory as supplemented by a full ethos. In his arguments about justificatory community, Cohen admits that the worst-off may see some exercises of productive latitude as falling under a legitimate "agent-centered prerogative."¹⁰⁰ Cohen does not explain precisely how that prerogative would be justified to the worst-off, nor how far the prerogative in question should extend. The modified version of Rawls's theory I have proposed offers resources for answering both questions. Furthermore, the answers stem from the very same values that give rise to Rawls's distributive principles—a concern to allow individuals to develop and pursue their conceptions of the good. Samuel Scheffler proposed "agent-centered prerogatives" in response to complaints that utilitarianism prevents individuals from making certain important personal decisions based on nondistributive grounds.¹⁰¹ Yet by the very nature of utilitarian justification, if such prerogatives are to be added to utilitarian theory it must be on the basis of nonutilitarian considerations.¹⁰² A Rawlsian approach might recommend itself on the grounds that the very same values that motivate the distributive rules also justify individual actions at variance with them. These values supply not only a justification for a kind of agent-centered prerogative, but also a starting point for establishing its proper limits. The resulting theoretical coherence and agreement with our intuitions about the range of personal choice in a democratic society seem to me important advantages of a Rawlsian approach.

100. "Incentives," p. 302.

101. Samuel Scheffler, *The Rejection of Consequentialism* (Oxford: Oxford University Press, 1982). Scheffler builds off Bernard Williams's statement of this complaint against utilitarianism in J.J.C. Smart and Bernard Williams, *Utilitarianism For and Against* (Cambridge: Cambridge University Press, 1973), pp. 116–17ff.

102. I refer to act-utilitarianism here. Rule-utilitarianism avoids this problem, but at other costs.